

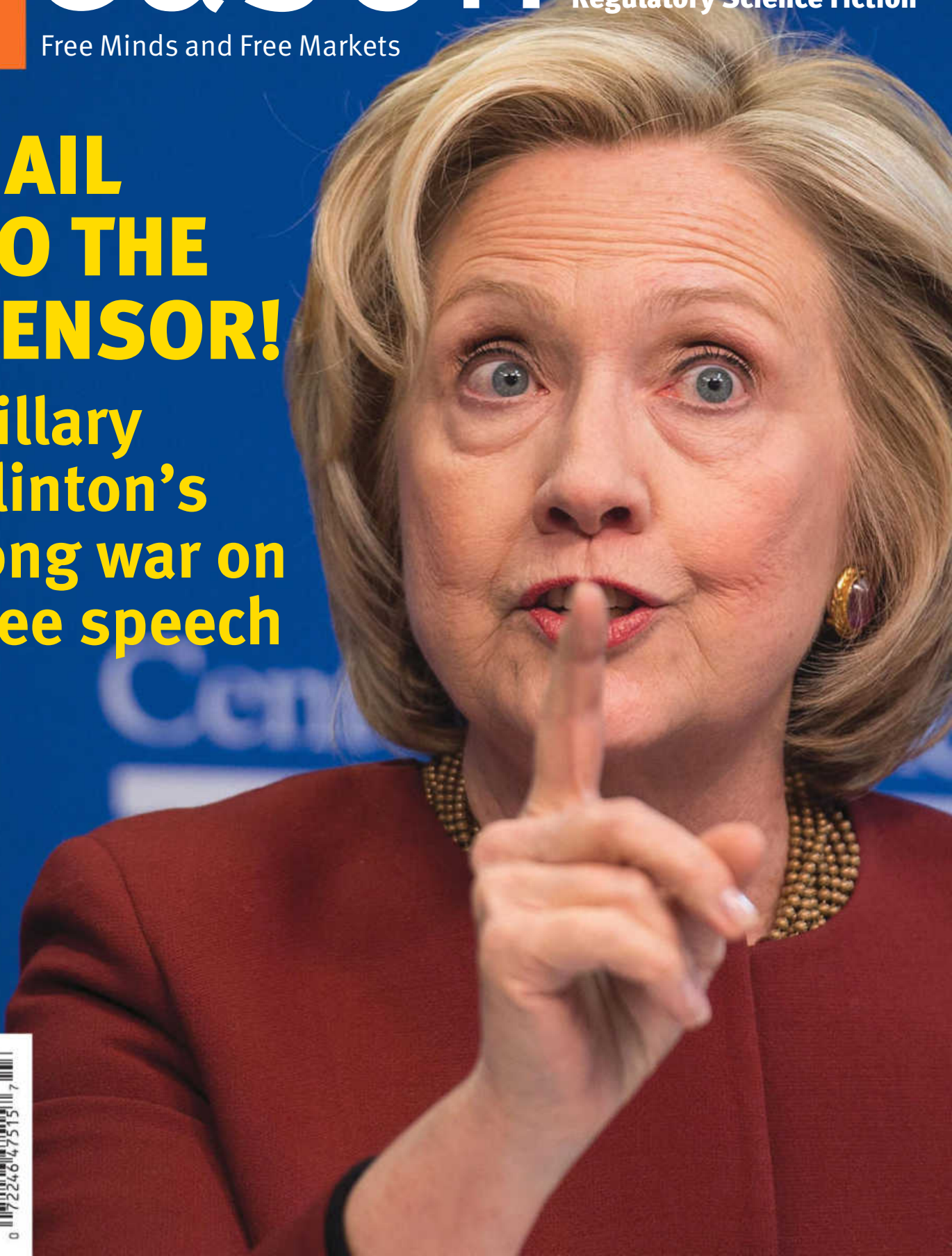
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Free Minds and Free Markets

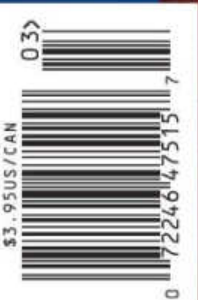
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Clinton's  
long war on  
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March 2016



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Cover Photo: Getty Images



# What Black Lives Matter and the Oregon Ranchers Have in Common

A little empathy could go a long way

“ADMIT IT,” documentary filmmaker Michael Moore tweeted on January 4. “If the armed Oregon militia were black or Muslim, they’d all be dead by now.”

That was a popular sentiment in the hours and days after armed ranchers in eastern Oregon took over an unused facility at the Malheur National Wildlife Refuge. Faced with the spectacle of gun-toting rural whites trespassing on federal property, many left-of-center commentators posited that the protesters were receiving racially derived special treatment—as evidenced by the fact that they were not already dead or in jail.

“Did I miss the call for the national guard in Oregon? I recall them in Ferguson and Baltimore,” tweeted former CNN host Roland Martin, deploying the not-quite-accurate hashtag #OregonUnderAttack (which was nonetheless more apropos than the similarly popular #YallQaeda and #VanillaISIS). If the Oregon occupiers had been non-white, wrote *Washington Post* columnist Eugene Robinson, “I’m pretty sure it wouldn’t be wait-and-see. Probably more like point-and-shoot.”

**Frustrated by the well-publicized police violence** against 25-year-old Freddie Gray of Baltimore and 18-year-old Michael Brown of Missouri, and by the super-aggressive law enforcement response to the protests that resulted from those incidents, critics of the Oregon “militia” were quick to ask why its leader, Ammon Bundy, was being given second and third chances to explain himself and stand down, an opportunity not afforded to Gray or Brown.

The quick vitriol spit at the ranchers by supporters of Black Lives Matter—not unlike the easy disregard with which swaths of white conservatives have bemoaned Black Lives Matter’s

stylistic excesses—is a missed opportunity to see at least some common cause in individual rights and dignity vis-à-vis a too-powerful state.

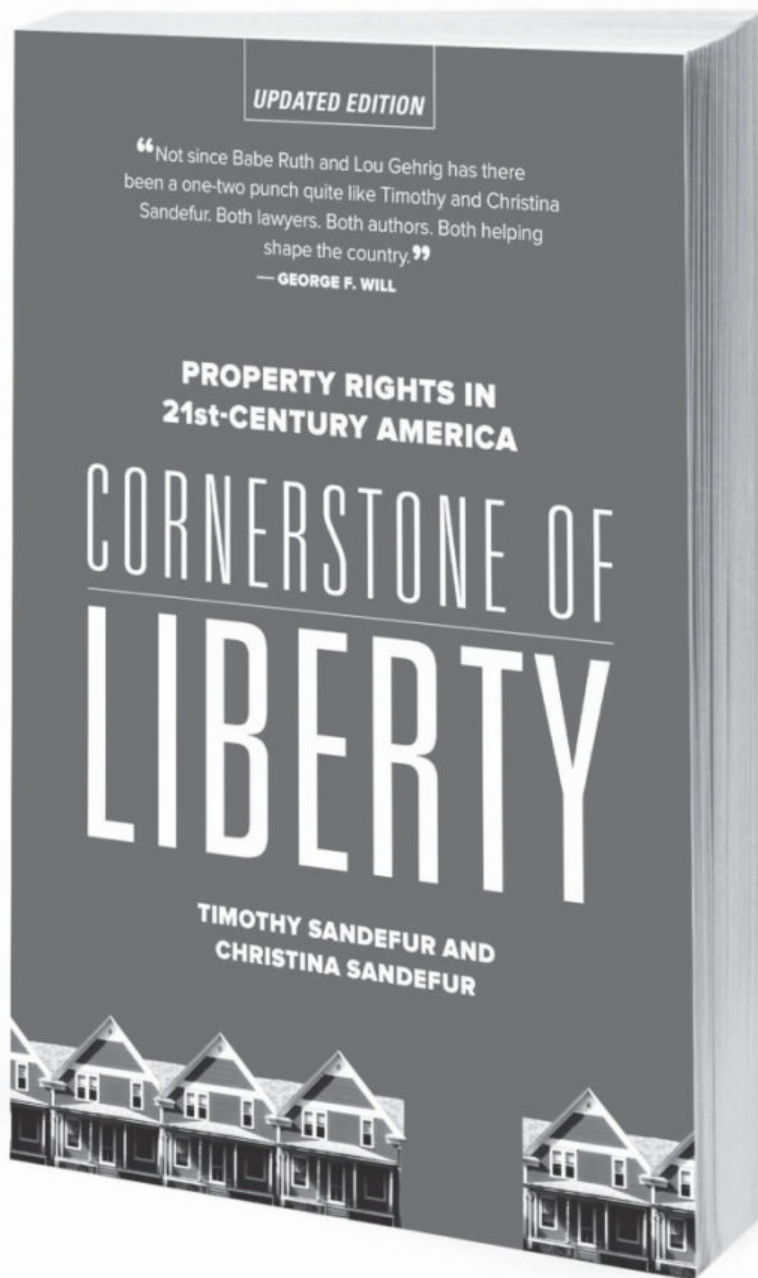
The spark for the Oregon protests was a federal court imposing mandatory minimum sentences on two ranchers who had already served shorter sentences for arson. Black Lives Matter activists have long highlighted sentencing disparities and other injustices perpetuated under those same mandatory minimum guidelines. The Oregon occupiers chose to draw attention to their cause by disrupting the status quo through a media stunt involving trespassing, just as Black Lives Matter activists did when blocking traffic at several airports on December 23.

One of the great promises of Black Lives Matter is communicating simple, powerful testimonials about the consistent mistreatment of and violence against individuals at the hands of the law. *You need to understand what our lives are like*, goes the underlying notion, and maybe you will have a sense of urgency about reforming the practices that degrade the autonomy of those lives. The prevalence of citizen and dash-cam video capturing police misconduct has proven a shock to the conscience—a sudden, terrible discovery that under the hood of the American system we have somehow been tolerating an intolerable mix of injustice, bad police and prosecutorial behavior, and a distorted set of incentives keeping it all in place. It’s no accident that grassroots calls for criminal justice reform have been breaking out from rural Texas to the halls of Congress.

**But that social progress—slow and painful** though it may be—gets reversed when the same people crying out for empathy suggest, even jokingly, that the real solution is to equalize violence by directing the same level of abuse



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“I hope they pull a M.O.V.E. on those terrorists in Oregon,” tweeted the author Jess Nevins, referring to one of the most egregious police overreactions in modern history—the 1985 incineration of an entire city block in Philadelphia, killing 11 people, after a standoff with a black militant group.

“Protesters’ & ‘occupiers’—(as in ‘Occupy Wall Street’)—do not have weapons. Terrorists have weapons,” wrote noted author Joyce Carol Oates. “Media should note distinction.” Not only was Oates wrong on logic—carrying a firearm is legal in much of America, and doing so does not strip you of qualification to protest—she is missing the opportunity to discover some politics-bending historical dissonance.

In 1967, the Black Panthers famously staged a protest in California’s State Capitol building in Sacramento. They were armed, as was their habit at the time. The incident terrified California’s Republican establishment, including Gov. Ronald Reagan. As a result the state pushed through a law banning the carry of loaded firearms. It is one of the most influential pieces of gun control legislation in modern times, and it was *endorsed* by the National Rifle Association, likely because the sight of marching armed Panthers seemed to be a bridge too far, even to the pro-gun crowd. When you lack empathy for an *other*, it’s a short step to deprive them of their rights.

**History provides a perhaps even more** surprising lesson. There have indeed been other instances analogous to the Oregon protest, but with members of a disfavored minority engaged in an armed standoff against law enforce-

ment. And contra Michael Moore, they mostly lived to tell the tale.

In November 1972, just days before Richard Nixon’s re-election, hundreds of Native American protesters, who had come to Washington to negotiate with the Bureau of Indian Affairs over what they felt were “broken” tribal treaties, overpowered security guards and took over the whole federal building instead. Armed with guns, knives, spears, and improvised weaponry, they lit fires inside the bureau, vandalized property (causing an estimated \$2 million in damages), and issued a 20-point set of demands. The tension lasted one week.

So how much blood was spilled to evict the insurrectionists? None: The crisis was dissipated through a peaceful negotiated settlement. Cops use tools besides trigger fingers more often than pessimists remember.

There were a series of standoffs between Native Americans and federal authorities during the late 1960s and early ’70s. One of them, the two-month occupation of Wounded Knee in 1973, saw several exchanges of gunfire; two Indians were killed, and a U.S. marshal was paralyzed. But the majority of the takeovers—Alcatraz, Mount Rushmore, and so on—ended without violence. And police forces back then, like the citizenry overall, were statistically more violent and racist than those we have today.

*Washington Post* writer Philip Bump in early January tallied up the last half-century of protester/law enforcement stare-downs. “Since 1969,” he wrote, there have been “more than 1,000 days that activists and extremists have occupied federal or state buildings or been in stand-offs with federal agents...Half of that total was in the occupation at

Alcatraz. And over the course of those incidents—excluding Waco—only four civilians and one federal agent were killed.”

As humans, we tend to remember the bad stuff: The Wacos (at which an appalling 82 civilians and four federal agents were killed), the Wounded Knees, the slayings of citizens like 12-year-old Tamir Rice for wielding a toy gun. But there is a chance for peaceful resolution of these types of standoffs—a chance that increases dramatically when law enforcement, media, and observers attempt to put themselves in the protesters’ shoes.

**In a world with more empathy, our** commonalities could spark some interesting conversations about the nature of government power and citizen protest. In the tribal world we actually live in, Oregon became a culture war skirmish within hours. One of the modern conditions of libertarianism is to experience these moments with a sense of heightened frustration, wishing that people could agree more about the flaws in the superstructure around them.

“Admit it,” *New York Post* columnist John Podhoretz tweeted January 3. “You like people who have your politics and you make allowances, and you want people whose politics you hate to be arrested.” But for those of us who feel instinctively distrustful of tribes, it’s closer to the opposite: It’s the people we don’t instinctively empathize with—whether because of politics, character, class, or race—whom we should take the most care not to railroad. ■

---

*Editor in Chief Matt Welch (matt.welch@reason.com) is co-author, with Nick Gillespie, of The Declaration of Independents: How Libertarian Politics Can Fix What’s Wrong with America (PublicAffairs).*

Have you ever wondered why human beings are born into a way of life that, sooner or later, ends in death?



A suggested answer to that question is the subject of this Essay.

In the first place, is there a purpose being served to have human beings continue in their present “life and death” existence?

Speculation suggests that since the creator creates, a created way to defeat the process of death is available. And that the process of death might be resolved by an explanation presented here.

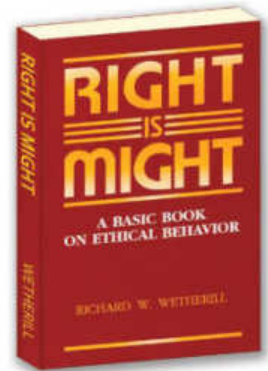
We know, the creator has created rules of life that people call Laws of Physics and refer to them as *natural laws*.

But, there is a *natural law of behavior* now being universally ignored. It calls for people to abandon *their* rules of behavior in order to obey the dictates of the following divine rule.

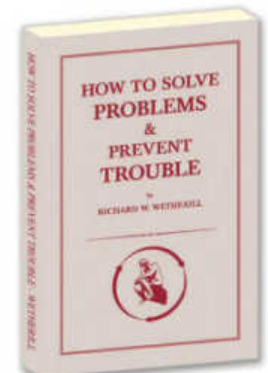
Decades ago, Richard Wetherill identified this rule and named it the creator’s *Law of Right Action*. Reader’s attention now is directed to this law’s demands, here defined as *thoughts and actions that are altogether rational, honest, and morally right*.

*So, people could continue their present “life and death” existence or obey the creator’s Law of Right Action and start a new life!*

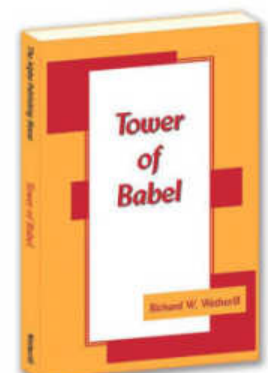
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**Circulation** Circulation Specialists Inc.

**Newsstand Distribution** Kable Distribution Services, 212-705-4600

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Malia Politzer



Harvey Molotch



Jay Kinney

In “Barcelona’s Pot Boom and Bust,” MALIA POLITZER examines a creative workaround to laws making the sale of marijuana illegal in Catalonia (page 34). “I find drug policy, in general, both fascinating and problematic,” she says, “and have been following the U.S.’s stuttering steps toward decriminalization. So when I stumbled upon the cannabis social club model, I thought it was an interesting counterpoint to what’s going on in the U.S.” Politzer, 32, recently completed a fellowship with the Institute of Current World Affairs in India and Spain. Her writing for the *Phoenix New Times* earned her multiple awards from the Arizona Press Club in 2009 and 2010.

New York University sociologist HARVEY MOLOTCH studies urban issues as well as product design and development. “I come from an objects family,” he explains. “On my father’s side, appliance stores. On my mother’s, Baltimore’s Oldsmobile dealer.” He says the scholarship of “stuff” comes “a bit compulsively”; one of his favorite pastimes is “to walk around foreign cities and look through hardware stores trying to figure out what things are used for.” On page 63, Molotch, 76, reviews Greg Ip’s *Foolproof: Why Safety Can Be Dangerous and How Danger Makes Us Safe* (“When Safety Measures Make Us Unsafe”).

JAY KINNEY, 65, used to write and draw “underground comix,” founding *Anarchy Comics* in 1978. “We were trying to push the comic art form to the limit,” he says, “resisting attempts at censorship and control from both the left and right, and embracing the freedom to entertain and express ourselves without worrying too much about our work’s commercial potential.” He also has a long history of writing about both religion and politics. “Reds and Feds” (page 66) is his review of *Heavy Radicals: The FBI’s Secret War on America’s Maoists*, which looks back at the FBI’s surveillance of the supporters of Chinese-style socialism.

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rules; free the felons

*The censorship generation?*

## No Offense

Robby Soave

FORTY PERCENT of millennials think the government should be able to censor speech that is offensive to minorities, according to a new Pew Research Center survey.

Older Americans were much less likely to support censorship. Only 27 percent of GenXers (ages 35–50), 24 percent of Boomers (ages 51–69), and 12 percent of people 70 and older agreed that the government should be able to restrict offensive statements. These results seem in keeping with the spirit of a separate survey from *The New Criterion* that found majority support among college students for speech codes, mandatory trigger warnings, and censorship of hateful speakers.

Another recent poll found that university professors were concerned about being forced to alter their curricula and teaching habits to avoid offending their students. The National Coalition Against Censorship conducted the unscientific survey, which involved 800 members of the Modern Language Association.

“In a small but significant number of situations (7.5%), respondents reported that students had initiated efforts to *require* trigger warnings on their campus,” the authors of the report wrote. ■

*Asteroid mining*

## Profits in Space!

Katherine Mangu-Ward

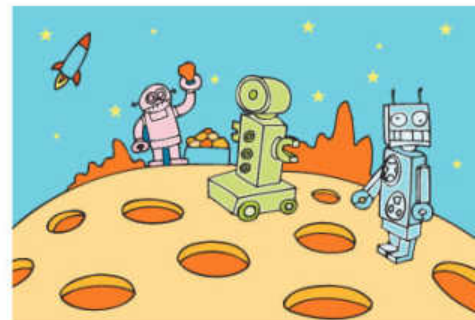
AT THE END of November, President Barack Obama signed the U.S. Commercial Space Launch Competitiveness Act of 2015, which could clear the way for private companies to profitably mine asteroids and extract other off-planet resources, such as water or rare metals, for economic gain.

The bill, sponsored by newly minted House Majority Leader Kevin McCarthy (R-Calif.), declares that a “United States citizen engaged in commercial recovery of an asteroid resource or a space resource under this chapter shall be entitled to any asteroid resource or space resource obtained, including to possess, own, transport, use, and sell the asteroid resource or space

resource obtained in accordance with applicable law, including the international obligations of the United States.”

The law includes a clever workaround of the Outer Space Treaty of 1967, which declares that no “celestial body” shall be subject to “national appropriation by claim of sovereignty, by means of use or occupation, or by any other means.” That treaty, to which the U.S. is a signatory, has long been seen as a barrier to commercial development of space assets. But the new law doesn’t assert sovereignty. Instead it instructs U.S. courts on how to handle property claims by any company, domestic or foreign.

With firms such as Planetary Resources, Deep Space Industries, Shackleton Energy



Asteroid mining (John Taka/Thinkstock)  
Mik (Robert Lehmann/Thinkstock)



## 40 years ago in reason

“True to the facile self-contradictions of fascist economic jargon, such government activity—which amounts to absolute government control over the supply and price of energy—is to be carried out in a manner that promotes ‘free enterprise’ and ‘free and open competition.’”

—Charlotte Twhight, “Congress Moves Toward Fascism”

the enraged husband reaches for his gun he discovers it’s missing. The police confiscated it last week, when private ownership of handguns was banned. Will the husband: a) forget his murderous intent, yawn, prepare a glass of warm milk, kiss his wife on the cheek, and retire for the evening? b) grab a knife, rope, or heavy object and complete the act? or c) buy a gun on the black market the following day, in preparation for the next family argument?”

—Donald Feder, “A Libertarian Look at Gun Control”

“Now, let us introduce gun control in our hypothetical family fracas. When

—March 1976



Resources, and Moon Express all eyeing various space rocks for commercial purposes, this law clarifies the rules and incentives as companies develop ways to generate rocket fuel in space, engage in zero-G 3D printing, and more. **E**

#### Citation limits

### Fighting for Fines

Scott Shackford

MISSOURI LEGISLATORS in 2014 passed a law capping the percentage of money municipalities could draw from traffic citations to fund their budgets. The impetus for the bill was a media blitz focused on St. Louis County in the wake of the Ferguson protests. Court systems in small communities were funding themselves by targeting people with frequent fines and complicated citation systems.

The new law allows most Missouri cities to derive 20 percent of their budgets from traffic citations. But for communities within St. Louis County, the number is 12.5 percent. For places without much of a tax base, the restrictions are a threat to the bottom line. For example, Cool Water, a small town with a population of about 1,200—84 percent of whom are black—depended on court fines and fees for a full 55 percent of its budget.

Rather than looking for alternative funding methods or scaling down their governments, 12 of these small communities, including Cool Water, are suing the state to defend their right to collect more. They argue that targeting St. Louis County with a lower cap than other counties enjoy is unconstitutional under state law. **E**

#### High beam confrontation

### Deadly Flash

Ed Krayewski

THE FAMILY of Deven Guilford is suing the Eaton County, Michigan, sheriff's office, seeking a jury trial and damages for the 17-year-old's death. Sgt. Jonathan Frost shot and killed Guilford after Guilford attacked him. A prosecutor, who said Frost and Guilford both could have made "better choices," declined to file any charges. The family's lawsuit argues the officer's actions up until the altercation and after it were all illegal.

The incident, part of which was caught on Frost's body camera, began when Frost pulled Guilford over for flashing his high beams at him. The teen told the sergeant he believed the high beams on the officer's new SUV were on. According to the family's lawsuit, this was not the first time Frost had pulled someone over who said they had flashed him for having his high beams on. The family argues flashing someone to remind them to check their lights is not against the law.

At first the teenager refused to give the officer his license, insisting there had been no reason for the stop. After admitting he did not have his license on him, he called his girlfriend, who the lawsuit says had it. Frost, meanwhile, said he believed that because Guilford was talking about his rights, he may have been calling in reinforcements, so the officer called for backup himself. Frost may have been on heightened alert because of government warnings about the threat of the "sovereign citizens movement," a subculture whose members believe they do not need to follow various laws. **E**

mere political grandstanding, or do governors actually possess the lawful power to keep Syrian refugees—or any other class of legally admitted aliens—out of their respective states?

The U.S. Supreme Court provided an answer to these questions in a 1915 decision, *Truax v. Raich*. At issue was the constitutionality of an Arizona law designed to prevent unwelcome foreigners from settling in that state by denying them the ability to secure meaningful employment. Under the terms of Arizona's "act to protect the citizens of the United States in their employment against non-citizens of the United States," all businesses with more than five employees were required to maintain a workforce that was at least 80 percent "qualified electors or native-born citizens." As a direct result of this legislation, an Austrian-born cook named Mike Raich lost his job.

The Supreme Court sided with Raich and struck down the nativist statute. "If such a policy were permissible," the court ruled, "the practical result would be that those lawfully admitted to the country under the authority of the acts of Congress, instead of enjoying in a substantial sense and in their full scope the privileges conferred by the admission, would be segregated in such of the States as chose to offer hospitality."

Put differently, Congress possesses the constitutional power to regulate the admission of aliens to the United States. Once an alien has been lawfully admitted under federal law, no state may "deny them entrance and abode." That standard plainly covers the treatment of lawful Syrian refugees. **E**

#### Polyamorous in Brazil

### I Do, I Do, I Do

Elizabeth Nolan Brown

A BRAZILIAN troupe that was joined in a civil union last October plans to fight for legal recognition of their polyamorous relationship, using the same-sex marriage struggle as a template. **>>**

#### Quotes

"But I will go on record today and tell you this, Mika: I never hit my mother with a hammer and I never stabbed anybody." **E**

—former Arkansas Gov. Mike Huckabee, taking a dig at fellow Republican presidential candidate Ben Carson, on MSNBC's *Morning Joe*, November 9

"Nobody wants to say this and nobody wants to shut down religious institutions or anything, but...there's absolutely no choice." **E**

—Republican frontrunner Donald Trump on whether he would close American mosques in response to the terrorist attacks in Paris, on Fox News' *Hannity*, November 17

"Actually, as explained in an amicus curiae brief filed by the Cato Institute, Reason Foundation, and DKT Liberty Project...there are no reliable statistics on which Sheriff Dart could base a judgment that sex trafficking has been increasing in the United States." **E**

—excerpt from an injunction by the U.S. Court of Appeals for the 7th Circuit prohibiting the Cook County, Illinois, sheriff from threatening credit card companies who do business with Backpage.com, November 30



#### States vs. refugees

### Syrian Opposition

Damon Root

THE NOVEMBER terrorist attacks in Paris have prompted the governors of 26 U.S. states to oppose the resettlement of Syrian refugees within their borders. Is this

## IF WE RELEASE MORE PRISONERS, WILL THERE BE MORE CRIME?



6,000

In November, more than 6,000 federal prisoners were released following changes to drug sentencing guidelines by the United States Sentencing Commission.

Congress is now weighing broader federal sentencing reform legislation. Some law enforcement groups have come out against it, claiming reform would lead to a spike in violent crime.

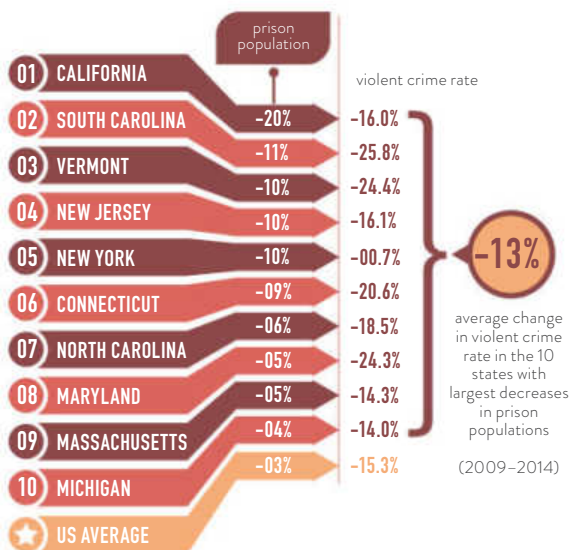
"These reforms are reversing 20 years of crime reductions and endanger the American public."

The National Association of Assistant United States Attorneys



But several states have already enacted various types of sentencing reform legislation aimed at reducing the number of nonviolent inmates in prison.

Over the past five years, the states that saw the largest reductions in prison populations also saw reductions in violent crime rates.



While the relationship between incarceration and violent crime is not clear-cut, evidence suggests that reducing prison populations **does not lead to increases in violent crime.**

For sources and more information, visit [www.reason.com/prisonandcrime](http://www.reason.com/prisonandcrime)

Though Brazil's anti-bigamy law bars the threesome from entering into a formal marriage and reaping the associated legal privileges, registering a civil union in Brazil simply requires proof that applicants share an address and bank account, plus a ceremony before a notary public.

The three women in the relationship, all in their early 30s, say they plan to start a family soon and want the same parental rights that two-parent families have.

A 2003 law in Brazil paved the way for legal recognition of same-sex civil unions. In 2011, the country's Supreme Federal Court ruled that all current marriage laws must apply equally to opposite- and same-sex couples. Fernanda de Freitas Leitao, attorney for the trio, believes that "all the principles and fundamentals" of the 2011 ruling can also be applied to polyamorous unions. She told Agence France-Presse that should her clients seek legal privileges, such as the ability to declare joint income for tax purposes or join a health insurance plan as spouses, she thinks they'll be successful.

While Brazil is a highly religious country, polyamory isn't uncommon in Brazilian pop culture. Such relationships are currently featured on two popular telenovelas and a reality TV series.



Edward Snowden's "unauthorized disclosures" for scaled-back snooping. New York Police Commissioner Bill Bratton fretted about terrorists "going dark," using encrypted digital communication to defeat government surveillance tools.

But the USA FREEDOM Act restricted only the gathering of phone metadata from American citizens on American soil. It would not have impacted the ability of U.S. intelligence officials to snoop on potential terrorists in Europe or the Middle East. And the law's restrictions didn't come into play until the end of November.

Furthermore, the investigation into how the terrorists planned their assaults revealed that the intelligence failures had little to do with technology or privacy protections. After the attacks, authorities found smartphones belonging to the terrorists. The phones were not encrypted. The men used online booking services and credit cards under their actual names.

### Paris attacks

## Encryption Cleared

Scott Shackford

ALMOST IMMEDIATELY after Islamic State terrorists struck Paris in November, killing 130, some American intelligence officials and surveillance supporters tried to lay blame on efforts to restrict the amount of private information the government could collect, and on the unwillingness of online companies to provide encryption "back doors" allowing government access.

CIA Director John Brennan said he hoped the massacres would be a "wake-up call" for European countries, blaming

### Insurance prices up

## Obamacare Expenses

Peter Suderman

OVER THE summer, as health insurers began to release their rates for plans sold through Obamacare's exchanges in 2016, it became clear that prices were set to rise, in some cases by as much as 30 percent. Tallies suggest that the average increase across Affordable Care Act-compliant plans is between 12 and 14 percent, depending on how it's calculated.

But Obamacare's customers won't just be paying more in



monthly premiums next year. They'll also be paying more out of pocket, thanks to many plans' rising deductibles. In some states, a review by *The New York Times* found, more than half of the plans sold under the law for 2016 come with deductibles of \$3,000 or more.

Deductibles and premiums are related; normally, insurers raise the former in order to keep the latter down. That both are rising at the same time is evidence that people buying plans through Obamacare are sicker and thus more expensive to cover than insurers generally expected.

The hikes are also a big part of why enrollment is expected to stagnate under the law this year: Even those who can afford insurance may not be able to afford the out-of-pocket cost of care once they are covered. ■

## Second Amendment

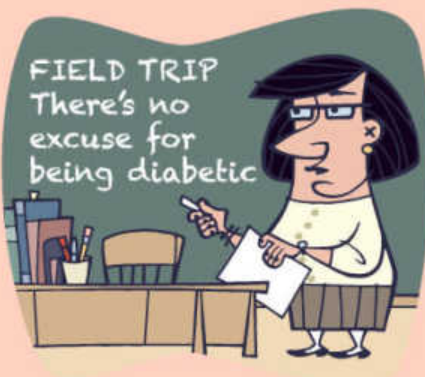
### Disarming Suspects

Brian Doherty

LATE LAST year, congressional Democrats responded to mass shootings in the U.S. and abroad by trying to give the attorney general unilateral power to deny the right to purchase a gun to anyone she suspected "to be or have been engaged in conduct constituting, in preparation for, in aid of, or related to terrorism, or providing material support thereof." The only condition was that she have an undefined "reasonable belief" that that suspected person "may use a firearm in connection with terrorism."

Despite the words "reasonable belief," many Republicans didn't want to give the A.G. arbitrary power to declare anyone ineligible for a core constitutional right (the Second Amendment) connected to a core human right (self-defense). In the past, the notion of "material support" for terrorism has been stretched to cover even selling nonviolent professional services to an organization the U.S. has proscribed as terrorist.

In early December, right after »



Officials at New Mexico's Mora High School refused to allow Dennasia Cordova to go on a field trip with the rest of her class because she has diabetes and they would not be able to follow her medical plan. The school then marked it down as an unexcused absence.

France's highest court has upheld a judgment against a dozen people who tried to encourage supermarket shoppers to boycott Israeli products. The court found the activists guilty of inciting racial hatred or discrimination and ordered them to pay a \$13,200 fine, plus court costs.



of the country's judicial system.

Seven years ago, the Student Federation at the University of Ottawa asked Jennifer Scharf to provide a free weekly yoga class. Now the federation is pulling the plug because of worries about "cultural appropriation." She offered to change the name of the class to "mindful stretching" to avoid offending anyone, but that led to a disagreement about how the phrase should be translated into French. So the group just decided to drop the class.

Illustrations: Terry Colton.com

Officials in Auckland, New Zealand, banned the sale, consumption, or possession of alcoholic beverages in the area around Western Springs Stadium on the day of a December AC/DC concert.

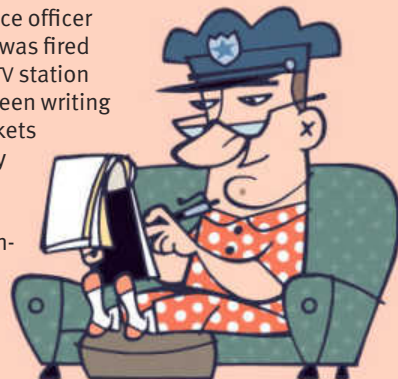
Karen Keller, who teaches kindergarten at a public elementary school in Bainbridge Island, Washington, will not allow her male students to play with Legos. "I always tell the boys, 'You're going to have a turn,'" she told the *Bainbridge Island Review*, "and I'm like, 'Yeah, when hell freezes over,' in my head." Keller is angry

because girls tend to play with dolls and crayons while boys go for the Legos. She believes that forcing both genders to make different choices will empower the girls.



Officials at Revere High School in Massachusetts banned Caley Godino from the cheer team because of a political remark she made: When one of her teachers tweeted about the low turnout for a recent mayoral race, Godino responded that only 10 percent voted because 90 percent of the city's residents aren't legal. "If you are going to stand up and say something that other people will find offensive, then you need to be prepared to deal with the ramifications of that," says Superintendent Dianne Kelley.

Houston police officer David Carter was fired after a local TV station found he'd been writing speeding tickets while off duty and mailing them to the vehicles' owners without ever pulling them over. Carter claimed to have "paced" the vehicles in his personal vehicle.



Charles Oliver



## The Cost of Combat

Stephanie Slade

In 1990, then-President George H.W. Bush signed the Budget Enforcement Act, which allowed Congress to pass emergency appropriations bills that would not count against annual deficit projections. These bills were supposed to be responses to “sudden, unforeseen, temporary conditions posing a threat to life, property, or national security,” explained Veronique de Rugy in *reason*’s May 2008 cover story. The act also required Congress to offset that emergency spending with “rescissions” withholding already appropriated funds from other programs.

But in 2002, when Congress let the law expire, all fiscal restraint around supplemental appropriations ended with it. “The floodgates are now open,” de Rugy wrote. Congress was now using the newly unrestricted emergency appropriations process to hide the true price tag of the wars in Iraq and Afghanistan. The U.S. had by that time already invested \$822 billion—“more than the spending on either the Korea or Vietnam wars when adjusted for inflation.” And the cost would only rise further.

All that spending has been obscured from the public eye, buried in supplemental bills that often go way beyond addressing actually unforeseen emergencies. And Congress knew exactly what it was doing. As de Rugy noted, a report from Sen. Jon Kyl (R-Ariz.) stated openly that “Congress should fund operations in Iraq through emergency supplemental appropriations (because funding it through the regular appropriations process would unnecessarily inflate the defense budget).” Transparency in the Pentagon’s finances, in other words, might lead to sticker shock and thus reduced support for the war effort. The George W. Bush White House couldn’t have that.

Supplemental appropriations have been lower



under Barack Obama, but that may soon change. In the wake of terrorist attacks in Paris and in San Bernardino, California, agitation for a new war against the Islamic State has heightened. Sens. John McCain (R-Ariz.) and Lindsey Graham (R-S.C.) have called for deploying 20,000 U.S. troops to Iraq and Syria. A “specialized expeditionary targeting force” of up to 200 special ops is already there, and a December CNN/ORC poll found 53 percent of Americans support putting more boots on the ground to combat ISIS.

How much would that ground war really cost? Thanks to emergency appropriations, voters may never find out.

▶ a massacre in California was carried out by apparently radicalized Muslims, Senate Republicans blocked the idea on an almost entirely party-line vote. While Dianne Feinstein (D-Calif.), who added the bill as an amendment to a separate measure, felt it was a “no brainer,” John Cornyn (R-Texas) said it was for people who “believe the federal government is omniscient and all-competent,” adding: “This is not the way we’re supposed to do things in this country.”

### Pot fails in Ohio Up in Smoke

Stephanie Slade

ON NOVEMBER 3, Ohio voters rejected a ballot amendment that would have legalized the sale and use of marijuana and authorized its production at 10 commercial facilities in the state. A survey conducted by Bowling Green State University two weeks before the election had found the race “too close to call,” with 44 percent supporting the measure and 43 percent oppos-

ing it. In fact, it lost by a 28-point margin—yet another failure by pollsters to correctly predict an electoral outcome.

Many legalization advocates opposed the Ohio amendment, thanks to the perception of cynicism around giving exclusive commercial growing rights to a small number of well-connected investors. Still, many activists wonder whether the defeat portends a shift in the national mood, which until then seemed to be running in favor of pot legalization. Currently, mari-

juana can be openly purchased in four states (Alaska, Colorado, Oregon, and Washington) and the District of Columbia. A number of additional jurisdictions have decriminalized the substance or permitted its use for medical but not recreational purposes. In 2016, voters will decide whether to approve full legalization initiatives in Arizona, California, Maine, Massachusetts, and Nevada.

Some 58 percent of Americans support such a move, according to Gallup. That’s up from just 34 percent 15 years ago.

### Body camera rules

## Mixed Messages

Scott Shackford

THE DEPARTMENT of Justice has given a thumbs-up to the idea that municipal police departments should furnish their officers with body cameras. Last year, announcing millions in matching grants to help law enforcement agencies pay for the equipment and training, then-Attorney General Eric Holder said: “Body cameras tend to reduce the number of complaints and are a very useful tool in trying to determine what was the nature of action between someone in the community.”

That quote, from a February community meeting in Oakland, California, suggests that federal law enforcement officers would be thrilled to work with their camera-clad municipal counterparts. But in November, a full nine months after Holder praised the technology, *The Wall Street Journal* reported that the Department of Justice still hadn’t proffered guidelines for using it when its own agents are involved.

As a result, federal organizations such as the U.S. Marshals are unwilling to work in task forces that include local law enforcement officers equipped with the very body cameras Washington is subsidizing. If local police want federal assistance in tackling violent crime, they have to put the cameras

away, completely eliminating the transparency benefits the Justice Department has lauded. ■

### Cane confiscation

## Blind Injustice

Lenore Skenazy

A BLIND girl in Britain has been told she cannot use her cane at school because it presents a tripping hazard.

A tripping hazard, that is, to the people who can see her. According to the *Bristol Post*, “Lily-Grace Hooper, who is seven, suffered a stroke when she was just four days old, which left her virtually blind. But her school, Hambrook Primary School, has now told the youngster she can no longer use her walking cane....A risk assessment by Gary Learmonth from Sensory Support Service—done on behalf of the school—said the cane caused a high risk to other people around Lily-Grace, and that she should instead have full adult support ‘100 per cent’ at all times.”

In other words, at the risk assessor’s behest, the school is ready to create a dependent child out of a bold and bubbly girl who was getting around just fine on her own. She’d come up with the cane idea herself, after tripping over some wrapping paper rolls at Christmas and then realizing she could use them to tap her way around.

Her mother is, not surprisingly, beside herself. “I am absolutely livid,” she told the *Post*. “What about the health and safety of my girl?” ■



## Free the Felons

Interview by Nick Gillespie



Kevin Ring

Kevin Ring was an attorney, a Republican congressional staffer, and a lobbyist before his role in the Jack Abramoff Indian casino scandal landed him in prison. Today he serves as the director of strategic initiatives at Families Against Mandatory Minimums (FAMM), a nonprofit that’s been fighting for sentencing reform since 1991. In October, Ring sat down with Reason TV’s Nick Gillespie. To see a video version of this interview, visit [reason.com](http://reason.com).

**Q:** The Justice Department has just released 6,000 criminals from the federal prisons. What’s going on with that?

**A:** More than a year ago the U.S. Sentencing Commission made the decision to reduce the drug guidelines. As a result, 6,000 people—46,000 over the course of the next 10 years—will get relief.

**Q:** Where did mandatory minimums come from?

**A:** We got mandatory minimums mostly in the ’80s and ’90s where people wanted to lock everybody up, because we did have high crime in the late ’70s. And crime went down, so if you looked at those two data points, you would argue they have done well.

But the states started going broke—their corrections budgets were out of control. So you had places like Michigan, New York, Rhode Island repealing their mandatory minimums, and their crime *continued* to drop. So the feds

have said: We now have evidence that we don’t need to have these policies.

**Q:** FAMM recently conducted a poll.

**A:** We did a poll about five years ago and found that 60 percent supported repealing mandatory minimums. This poll showed 77 percent. And it’s across the political spectrum. The biggest jump was among self-described conservatives. Among that group, a full 71 percent now support repealing mandatory minimums. That would have been unheard of 20 years ago.

And we recently had a group come out [called] Law Enforcement to Reduce Crime and Incarceration. So the people with badges are now saying: We have the wrong people in jail. We need resources to go after the bad guys, but we’re wasting [them] on holding these nonviolent offenders.

**Q:** This isn’t just a philosophical discussion for you. You are a convicted felon. Tell us a little about that.

**A:** I was a lobbyist in Washington, D.C., and I was convicted of a junior varsity form of bribery. So I went to a federal prison camp—these are mostly drug and gun offenders I served with for a year and a half. And I saw the people who were serving mandatory minimum sentences. I wish everyone had that opportunity, maybe as visitors, because they’re not who you think they are. These are people who’ve made mistakes. And a lot of them will tell you they needed to be punished to get on the right track. But they don’t need 10 or 20 years.

**Q:** What are some of the things we could do to make people less likely to recidivate?

**A:** The bills in Congress talk about doing “front end” and “back end.” So you’ll reduce sentences, but you’ll use that savings to do things like more drug treatment. Cognitive behavioral therapy. Job training is important, and the other thing is when they get job skills that they can come out with, we have to make sure they’re employable.

**Q:** Talk about that, because Obama was recently saying we have to get the box off job applications asking if you’ve ever been arrested or convicted.

**A:** If I interview you for a job, I may not ask you on your application, but if I see a 10-year gap on your resume, that’s a problem. So the question is more, How am I going to react to that? We need people to realize, just because you served time doesn’t mean you’re disqualified from productive service.



## Self-Help for Soft Targets

Unlike Obama's gun control proposals, armed citizens can stop mass shooters who are invisible until they strike.

THERE IS NOT much the government can do about the sort of terrorist threat that President Barack Obama described in his speech following the massacre in San Bernardino. It will always be difficult to stop self-radicalized jihadists, operating under no one's instructions, from carrying out attacks on soft targets too scattered and numerous to secure.

The only viable alternative, self-help, is one that Obama seems ideologically incapable of considering. His proposals for new restrictions on firearms move in the opposite direction, based on the assumption that the problem is too many guns in too many hands.

Gun control supporters generally dismiss the notion that armed citizens can help stop terrorists and other mass shooters. They argue that unbadged amateurs will be frozen by fear, that they will accidentally shoot innocent people, or that police will mistake them for bad guys.

These possibilities do not negate the lifesaving potential of encouraging greater self-reliance when waiting for police to arrive means waiting for coldblooded murderers to kill and kill again. We know that intervention by people already at the scene can make a crucial difference.

Last October, UCLA law professor and *Washington Post* blogger Eugene Volokh listed 10 cases where bystanders used firearms to disable, detain, or scare away gunmen who had shot people or threatened to do so. The

examples included a Mississippi high school principal, a Philadelphia barbershop customer, a Colorado Springs churchgoer, and a Chicago Uber driver.

As Volokh noted, such interventions seem to be rare—not surprising, since so many mass shootings occur in “gun-free” zones where law-abiding people are disarmed. But bystanders with firearms demonstrably can save lives, which is more than you can say for Obama's proposals.

The perpetrators of the San Bernardino attack did not have criminal or psychiatric records that would have legally disqualified them from buying guns. In fact, one of them passed background checks when he bought pistols from California gun dealers. Obama's recommendation of “universal background checks” in response to the San Bernardino massacre is therefore a non sequitur.

Likewise his suggestion that people on the federal No Fly List should be barred from buying guns. Leaving aside the constitutional problems with stripping someone of his Second Amendment rights based on nothing more than an unverified suspicion, the San Bernardino killers were not on the No Fly List or the FBI's so-called Terrorist Watchlist.

Obama's other proposal—banning the rifles used in the attack, which he described as “assault weapons” even though they did not qualify as such under California law—at least had something to do with the actual facts

of the case. But there is no reason to think arbitrarily prohibiting firearms based on their scary, military-style looks will impair the ability of terrorists to kill innocent people.

Other gun control advocates would go further. *The New York Times* called for mass confiscation of guns “to reduce their number drastically” by “eliminating some large categories of weapons and ammunition.” It did not get much more specific than that, although *Times* columnist Gail Collins claimed “semiautomatic weapons”—a category that includes many hunting rifles and almost all modern handguns aside from revolvers—“are totally inappropriate for either hunting or home defense.”

The *Los Angeles Times*, which doesn't think the Second Amendment protects any rights the government must respect, demanded a federal ban on “military-style weapons,” a limit on the size of magazines, and background checks when parents give guns to their children. It also would “get rid of most concealed-carry laws.”

The reasoning behind that last suggestion is hard to fathom. In the face of self-directed terrorists who are invisible until they strike, the last thing we should do is prevent law-abiding Americans from carrying guns. Autonomous terrorism calls for autonomous defense. ■

Senior Editor Jacob Sullum ([jsullum@reason.com](mailto:jsullum@reason.com)) is a nationally syndicated columnist.  
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## Taking In Refugees Is Good for America

Fear of terrorism is understandable but overblown.

WE ALL INTUITIVELY understand that if your friend loses his house in a hurricane, the right thing to do is to invite him to stay with you. But what if 10 of your friends lose their houses? You might call on your other friends to help out with the cost of hotel rooms. And if you don't actually know the unfortunate souls who lost it all? You might still lend a hand through the many private charities that assist those in distress.

The same philosophy should apply today, as the American people decide whether to accept a portion of the estimated 4.2 million Syrian refugees currently trying to escape their civil war-torn nation. And yet popular resistance to the idea is strong.

In 2015, the United States admitted 70,000 refugees combined from countries such as Iraq, Iran, China, and Indonesia. For 2016, President Barack Obama proposed increasing the ceiling to 85,000—higher than at any time since he took office, but much lower than the 207,116 refugees—mostly from Asia—that we welcomed into the country in 1980.

Obama also requested that 10,000 refugees from Syria be accepted—a number that barely begins to address the humanitarian needs of the millions displaced by war. It also pales in comparison to the 1.1 million Syrian refugees who have found a home in Lebanon and the 815,000 allowed to resettle in Turkey. Unfortunately, with the rise of radical Islamism and recent terrorist attacks in countries such as France and the United States, many Americans (and American presidential candidates) are concerned about the national security implications of allowing in *any* refugees from that region.

**Protecting U.S. citizens is obviously a priority,** and the government has a responsibility to vet refugees before letting them settle here.

But this isn't as easy as it sounds, since reliable background checks may be hard to obtain and people who have fled their homes may have a difficult time providing verifiable proof of their identities.

Those difficulties shouldn't be deal breakers, however. Arguably, no act of terrorism has been committed in the last 40 years by refugees in the United States (though a tiny number of refugees have been arrested on terrorism-related charges, and depending on the precise definition of *refugees* used, the Boston marathon bombing or other incidents may count). And the long wait time and high costs of entering the country as a refugee make that an extremely inefficient way for terrorists to get in.

Meanwhile, countries that refuse entrance to refugees—forcing them to reside in terrible living conditions in camps near the theater of conflict—may inadvertently be facilitating recruitment by extremist groups. A 2013 study in *International Interactions* shows that when large numbers of refugees are placed in countries that have historically had tensions with their country of origin, it increases the risk of terrorism. Georgetown University's Ann Speckhard, who studies terrorist psychology, says: "Experience from many conflict zones teaches us that the longer these refugees are left to languish in despair in camps, the more prone they become to radicalization." In other words, there are serious security downsides to *not* accepting refugees.

**Resettlement in the United States is only the first step** in the process, of course; assimilation is also important. Thankfully, past efforts on this front have met with positive results. "Refugees adapt quickly to the U.S. economy, complement existing workers, and settle rapidly into their new homes," argues Alex Nowrasteh,





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an immigration specialist at the Cato Institute.

Because refugees cannot return to their homeland as many economic migrants do, Nowrasteh explains, they tend to make serious long-term commitments to learning English and other relevant skills. The data confirm this point: A paper by Kalena E. Cortes, published in *The Review of Economics and Statistics* in May 2004, looked at how implicit differences in the time horizons of refugees and economic immigrants affected subsequent human capital investments. She found that a decade after their arrival, refugees who settled here between 1975 and 1980 earned 20 percent more in wages, worked 4 percent more hours, and had improved their English skills 11 percent more.

“Unlike other immigrants, refugees do have immediate access to some welfare programs,” Nowrasteh adds, “but they generally leave them rapidly and are more likely to enter the workforce than natives or other immigrants.” This is a good thing, since the availability of welfare doesn’t do much to help assimilation and may even hinder refugees’ well-being.

### A 2000 paper by Andrey Vinokurov,

Dina Birman, and Edison Trickett in *International Migration Review* looked at the psychological impact of working on 206 (mostly Jewish) Soviet refugees in the United States. It compared Russians who settled in Brighton Beach in Brooklyn to those who settled in the Washington, D.C., area.

The New York refugees had more access to welfare. However, the data show that those in the D.C. area were more satisfied with their lives and more upwardly mobile. The more the job matched the refugee’s original skills, the more positive the impact. There was no real difference on the level of acculturation.

But what about the impact of these new entrants on Americans? Economists have shown that immigrants generally increase the host country’s overall gross domestic product (GDP). The result on GDP per capita is a source of debate, but the literature suggests that the effect depends on the relative skill set of refugees compared to the native population. Highly skilled refugees would add much more to the average per-person income than low-skilled ones. But does that mean that low-skilled

refugees have a negative impact?

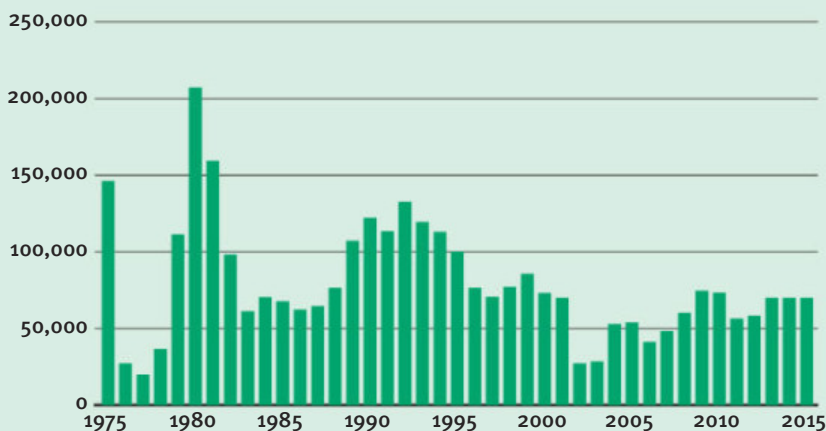
That doesn’t seem to be the case. In a well-known 1990 paper, economist David Card looked at the impact on the Miami economy of 125,000 Cuban refugees who arrived during the Mariel boatlift crisis. Though the immigrants increased Miami’s labor force by 7 percent—and were concentrated in less-skilled occupations—contrary to people’s fears, the influx had virtually no effect on the wages or unemployment rates of the city’s less-skilled workers, even among previous Cuban immigrants.

### Low-skilled refugees, like other

immigrants, tend to boost the employment opportunities of native workers, either by providing cheap child care services that allow women to increase their labor force participation or by pushing native workers to pursue more complex occupations and higher wages. A 2013 National Bureau of Economic Research working paper by Mette Foged and Giovanni Peri, for instance, looked at the effect on Danish workers of a large inflow of non-European refugees between 1991 and 2008. It found real positive wage effects set in after five to six years, as the rest of the economy adjusted to the increase in workers and the native laborers moved into more complex jobs. The flexibility of the Danish labor market played to everyone’s favor, much as the strong economy in the U.S. in the 1980s did.

Assuming these results hold true today, accepting more refugees is not just the moral thing to do. It’s in everyone’s best interest. ■

### Refugee Admissions Since 1975



Source: Department of State, Bureau of Population, Refugees, and Migrations.  
Produced by Veronique de Rugy and Rizqi Rachmat, December 2015.

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## A New Central Plan for the Climate

Representatives of 195 countries hammer out an emissions accord in Paris.

WHEN A UNIVERSAL agreement was adopted at the Paris climate change conference on December 12, 2015, President Barack Obama hailed the pact as “the best chance we have to save the one planet that we’ve got.” But the approbation was not universal. The activist and climatologist James Hansen, often described as the “father of climate change awareness,” rebuked the Paris negotiators. “It’s just bullshit for them to say, ‘We’ll have a 2°C warming target and then try to do a little better every five years,’” he told *The Guardian*. “It’s just worthless words. There is no action, just promises.”

Hansen dismissed the agreement because its cuts to greenhouse gas emissions are not mandatory. In fact, the key to getting 195 countries to approve the Paris Agreement was that—unlike earlier climate pacts—it is based on a non-zero-sum bottom-up process. Countries were not told what to do; instead, each one proposed for itself the steps it would take to combat man-made global warming. Eventually, 186 countries voluntarily submitted “nationally determined contributions” outlining their plans for managing future emissions.

The new agreement sets the objective of “holding the increase in the global average temperature to well below 2°C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1.5°C above pre-industrial levels.” Its long-term goal is to peak global emissions of greenhouse gases (chiefly carbon dioxide released by burning fossil fuels) as soon as possible. Thereafter, countries are to pursue rapid reductions so as to achieve net zero emissions by the second half of this century.

**The future temperature goals were set based on** computer climate models in which the global average temperature could increase as much

as 5 degrees Celsius by 2100 if countries continue to ramp up their use of fossil fuels. Various groups calculate that the emissions cuts pledged under the Paris Agreement would still boost average temperatures between 2.7 and 3.5 degrees Celsius by that year. The differences in the estimates depend on assumptions about whether countries will speed up their rates of decarbonization.

For context, keep two figures in mind. First, the global average temperature at the coldest point of the last ice age, 20,000 years ago, is estimated to have been only about 4 degrees Celsius below pre-industrial temperatures. Glaciers then covered about 25 percent of the earth’s land surface, and the sea level was about 400 feet lower than today. Second, using satellite temperature measurements, researchers at Remote Sensing Systems (RSS) have found that the warming projected by climate models is two to three times higher than the actual rate at which tropospheric temperatures have increased in the past couple of decades. RSS notes that those temperatures are increasing at a rate of 0.13 degree Celsius per decade. If this were to continue for the next 85 years, the average global temperature would rise by a comparatively moderate 1.1 degree Celsius.

**Countries will have regular opportunities to** update their nationally determined contributions according to what science is saying about the pace and intensity of man-made warming. If the trend in global average temperatures continues along the low trajectory measured by satellites, world leaders may be able to scale back their commitments.

According to calculations from the World Resources Institute, keeping future temperatures below the 2 degree Celsius threshold will



require the world to stop burning coal, oil, and natural gas to produce energy sometime between 2060 and 2075.

The Paris Agreement “marks the end of the era of fossil fuels,” asserted May Boeve, executive director of the climate change activist organization 350.org, in a statement. “There is no way to meet the targets laid out in this agreement without keeping coal, oil and gas in the ground. The text should send a clear signal to fossil fuel investors: divest now.” This may already be happening. As of December 2015, the Dow Jones Coal Index was down 96 percent from its 2011 highs. The Stowe Global Coal Index was down 87 percent.

**The key to getting the governments** of poor countries to buy in was the promise that the governments of rich countries would provide substantial monetary aid. Under the agreement, developed countries are supposed to mobilize \$100 billion in climate finance annually by 2020 and scale up from there. How much more might developing countries want? Most poor countries submitted plans conditioned on how much cash rich countries would be willing to give them. The think tank Carbon Brief has calculated that the funding needed to fulfill developing country pledges could amount to as much as \$3.5 trillion between 2020 and 2030.

Rich countries got most of what they wanted with regard to being able to monitor and verify that the signatories are doing what they said they would. Countries are required to file a national inventory report of emissions and removals, plus any other information necessary to track the fulfillment of their pledges. In

other words, each country is legally bound to accurately tell the others how it’s doing.

**To avoid triggering constitutional** scrutiny of the Paris Agreement by the U.S. Senate, it is being styled domestically as “enhancing the implementation” of the already ratified U.N. Framework Convention on Climate Change (UNFCCC). The president apparently plans to argue that he doesn’t need approval because the agreement features voluntary targets alongside its obligatory reporting procedures. The legally binding accounting provisions are supposedly an extension of the require-

**The key to getting 195 countries to approve the agreement was that it’s based on a non-zero-sum bottom-up process. Each country proposed for itself the steps it would take to combat man-made global warming.**

ments of the UNFCCC. And it’s true that the U.S. government already does a pretty comprehensive job of reporting on greenhouse gas inventories and on the actions we’ve taken to reduce emissions. So perhaps the Obama administration’s interpretation is legally plausible.

Congressional Republicans, however, do not see it that way. In December, Sen. John Barrasso (R-Wyo.), who chairs the relevant subcommittee, released a report noting that the Senate Foreign Relations Committee stated in 1992 that “a decision by the Conference of the Parties [of the UNFCCC] to adopt targets and timetables would have to be

submitted to the Senate for its advice and consent.” The Republican-dominated Senate will almost certainly reject the pact if given the opportunity.

Under the agreement, global “stocktake” meetings will be held every five years beginning in 2023. “The world is on an irrevocable and inevitable path to a low-carbon economy,” says Michael Jacobs, a senior adviser for the New Climate Economy project. “Five-year cycles mean that policies will be synchronized.... That sends a very strong signal to the market.”

Centrally planning the climate and the global economy—what could possibly go wrong? ■

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# Hail to the Censor!

Hillary Clinton's long war on free speech

*Matt Welch*

ON DECEMBER 6, after delivering an address about Israeli-American relations at the Brookings Institution's Saban Forum, Democratic presidential frontrunner Hillary Clinton was asked how she would deal simultaneously with the bloody dictatorship of Syrian President Bashar al-Assad and the terrorist menace of ISIS. After spending three minutes talking about Sunni insurgents and diplomacy with Russia, Clinton pivoted to a solution she has proposed for several disparate policy challenges across her decades in public life: censorship.

"We're going to have to have more support from our friends in the technology world to deny online space," Clinton warned, citing the deadly terrorist attack in San Bernardino four days earlier by a U.S.-born Muslim and his Pakistani wife. "Just as we have to destroy their would-be caliphate, we have to deny them online space."

But doesn't that go against the American cultural and constitutional tradition of free speech? Clinton anticipated the argument: "You're going to hear all of the usual complaints—you know, 'freedom of speech,' etc.," she said. "But if we truly are in a war against terrorism and we are truly looking for ways to shut off their funding, shut off the flow of foreign fighters, then we've got to shut off their means of communicating."

This was no heat-of-the-moment hyperbole. Earlier that same day, the former secretary of state was even more explicit about what she would demand from American technology companies: "We're going to need help from Facebook and from YouTube and from Twitter," she declared on ABC's *This Week*, announcing a strategy of fighting terrorists "in the air," "on the ground," and "on the Internet." "They cannot permit the recruitment and the actual direction of attacks or the celebration of violence. They're going to have to help us take down these announcements and these appeals."

You would think that a leading presidential candidate rolling her eyes at "freedom of speech" while advocating content-based takedown orders for U.S. media companies might generate a news cycle or two worth of raised eyebrows. But Clinton's illiberal proposals were drowned out within hours by the furor over Republican frontrunner Donald Trump calling for a "total and complete shutdown of Muslims entering the United States." (Not to be outflanked on tech-toughness, the populist mogul also proposed "closing that Internet up in some ways," and scoffed even harder at potential critics: "Somebody will say, 'Oh, freedom of speech, freedom of speech.' These are foolish people.")

But long before Donald Trump became a one-man media-distraction machine, Hillary Clinton had mastered the art of pushing maximally against free expression without being tagged as a foe of the First Amendment, unlike



her friend and anti-media collaborator Tipper Gore. Clinton has crusaded against not just “gangsta” rap (the scare quotes are hers), but also the “poison” spread by movies, television, and video games. Her record includes not just Gore-like Capitol Hill condemnations of content and agitation for parental warning labels, but also unconstitutional legislation mandating federal punishment for those who sell and market controversial entertainment.

She has consistently backed government intrusions into communications devices, from content-filtering V-chips on television sets to anti-encryption back doors on iPhones. She has established as her litmus test for Supreme Court nominees a commitment to overturn 2010’s *Citizens United v. Federal Election Commission*, in which a 5–4 majority overturned on grounds that “the censorship we now confront is vast in its reach” a federally enforced cable TV ban of a documentary film attacking a certain politician named Hillary Rodham Clinton. Several other laws that Clinton championed, including the Communications Decency Act (CDA) and the Child Online Protection Act (COPA), were opposed by the American Civil Liberties Union (ACLU) and struck down by the Supreme Court as violations of the First Amendment. And she has grasped the flimsiest reeds of evidence to lay at least partial blame on artistic expression for everything from playground fighting styles to the Columbine massacre to, most infamously, the murder of four U.S. personnel in Libya.

How has Clinton preserved a solid reputation among creative professionals despite such a shaky record on speech? Largely because the industries in her critical crosshairs—Hollywood, Silicon Valley, gaming—lean overwhelmingly Democratic, and Democrats care more about defeating Republicans and defending core progressive issues than having to fend off sporadic state meddling into their workplaces. On November 19, the same day the technology-policy website *Techdirt* complained in a headline

that “Hillary Clinton Joins The ‘Make Silicon Valley Break Encryption’ Bandwagon,” *The Washington Post* reported that the presidential candidate’s two biggest sources of campaign cash thus far were the technology and communications industries. And Clinton’s biggest donor over the years? Haim Saban (after whom the Brookings forum at the beginning of this article is named), an Israeli-American rock musician who made his first billion from co-creating *Mighty Morphin Power Rangers*, a children’s series that the then-first lady lambasted in 1996 as “one of the most violent television programs on television today.”

The political press, which itself leans heavily left of center, often glosses over Clinton’s more controversial free speech remarks and initiatives in favor of focusing on the political context in which they’re made. During her October 2015 testimony in front of the House Select Committee on Benghazi, for example, she issued the remarkable claim that the murdered cartoonists of the French satirical newspaper *Charlie Hebdo* “sparked” their own assassinations by drawing caricatures of Mohammed—the free expression equivalent of blaming rape victims for wearing short skirts. Yet the ensuing news coverage was almost all about how the presidential contender stoically parried gotchas from a hostile GOP. “Hillary’s Best Week Yet,” ran the next-day headline in *Politico*. “The once-beleaguered candidate looks like a frontrunner again.”

Clinton’s wary approach toward free speech is based on three long-held beliefs, each of them highly contestable. The first is that media consumers, especially children, are hapless vessels into which manipulators pump propaganda,

**“We’re going to have to have more support from our friends in the technology world to deny online space,” Clinton warned. “You’re going to hear all of the usual complaints—you know, ‘freedom of speech,’ etc.”**

thereby dictating behavior. As she asserted to public radio broadcaster Diane Rehm in 1996, “The media, more than any other single institution in our society, has affected how children are raised and how they see themselves and what they think of their futures.” The second is a lack of faith that the marketplace, in the absence of government pressure, is capable of solving, or even rendering obsolete, the problems she finds so vexing. The third is that the government itself can find—or order the private sector to develop—magic-bullet solutions to complex technical challenges. At the December 19 Democratic presidential debate, for example, Clinton called for a “Manhattan-like project” to give law enforcement the ability to penetrate encryption, two decades after her husband’s very similar effort to mandate an encryption-defeating Clipper Chip in electronic devices was revealed to be (in the recent words of one of its designers) “an expensive, embarrassing fiasco.”

Online bettors continue to treat Hillary Clinton as the overwhelming favorite to win the presidency; she’s at 56 percent to Donald Trump’s 16 percent as of late December, according to PredictIt. At a time when 51 percent of college students favor speech codes (according to an October Yale poll) and when noted law professors such as Eric Posner are writing columns with headlines like “ISIS Gives Us No Choice but to Consider Limits on Speech,” it’s worth examining how someone with Clinton’s long and worrying track record might impact the legal and cultural climate for American free expression if elected to run the executive branch of the United States government.

### **‘If I Could Do One Thing to Help Children in Our Country, It Would Be to Change What They See in the Media’**

The most famous anti-Hollywood moment at a major-party political convention was Pat Buchanan’s tub-thumping “Cultural War” speech of 1992, in which the Republican runner-up criticized among many other modern ailments “the raw sewage of pornography that pollutes our popular culture” and posited that “Clinton and Clinton are on the other side” of this fundamen-

tal divide. What’s much less remembered is that Hillary Clinton herself slammed the entertainment industry in not one but two Democratic National Convention addresses.

“Right now there are parents questioning a popular culture that glamorizes sex and violence, smoking and drinking, and teaches children that the logos on their clothes are more valued than the generosity in their hearts,” Clinton lamented in 1996. “I’ve listened to parents distressed about a culture that too often glorifies violence,” she reiterated in 2000. “Why can’t all of us—including the media—give parents more control over what their children see on TV, the movies, the Internet, and video games?”

For Clinton, parental “control” has translated into four types of policy initiatives: federal penalties (including, at times, prison sentences) for those who broadcast, sell, or market racy content to minors; mandates on communications equipment manufacturers; government-patrolled ratings systems; and requirements on broadcasters to produce more children’s programming under threat of fines or license non-renewal.

The Clinton administration’s first of many forays into the nexus between the entertainment industry and children came almost immediately after inauguration. “Broadcasters, beware,” warned House Communications and Technology Subcommittee Chairman Ed Markey (D-Mass.), at a March 1993 hearing about the television industry’s compliance with Federal Communications Commission (FCC) rules on children’s programming. “The new era has begun. Standards are no longer going to be determined under... Reagan-Bush FCC standards...but rather the Clinton-Gore standards. There will be license challenges.”

There were indeed license challenges and assorted fines levied on stations that were determined by the Clinton FCC to be insufficiently compliant with the 1990 Children’s Television Act (CTA), a law that mandated minimum amounts of educational programming while limiting advertising during blocks aimed at young audiences. Immediately prior to Markey’s hearings, leading CTA proponent and longtime media activist Peggy Charren “met with First Lady Hillary Clinton and won the Administration’s tacit support for stronger enforcement of the law,” according to a contemporaneous account in the *Los Angeles Times*. On the CTA’s 15th anniversary, then-Sen. Clinton said in a statement, “I was proud to host the first White House Children’s Television Summit and to help pass this landmark legislation.”

The Children’s Television Act was premised on the notion that “educational television programming for children is aired too infrequently,” and that as a partial result, “chil-

dren in the United States are lagging behind those in other countries in fundamental intellectual skills.” In the year it was passed, the average U.S. household could access 33 television channels, according to Nielsen Media Research. By the time the law was strengthened for a third time in 2006 (Hillary Clinton had successfully barnstormed for a second ratchet in 1996 as well), the average number of stations was 104; now it’s at 189. ABC, NBC, CBS, Fox, WB, UPN and PBS all have “kids” channels these days; Disney and Nickelodeon operate whole chunks of the dial; and you can watch educational programming everywhere from Discovery to Qubo to ESPN. Meanwhile, three of the five most popular YouTube channels worldwide in November 2015 were aimed at children.

The proliferation of child-friendly marketplace programming did nothing to dull Hillary Clinton’s ire against broadcasters and other agents of commercialized crassness. To the contrary, the topic dominated her public focus after the twin 1994 defeats of Hillarycare and Democrats in the midterm elections. In a withering June 1995 commencement speech at Brooklyn College, for example, the first lady combined right-wing-style critiques of morality with left-wing rants about the market.

“Just look around and you will see the effects of what one political scientist has called ‘turbo-charged capitalism,’” she railed. “Consumerism and materialism go unchecked, run rampant through our culture, dictating our tastes and desires, our values and dreams. We are fed, through the media, a daily diet of sex and violence and social dysfunction and unrealizable fantasies. We live too often in a disposable, throw-away society, where the yearning for profits and instant gratification overshadows the need for moderation and restraint and investing for the long-term.”

That fall, both Clintons went ballistic at a Calvin Klein billboard campaign in which young-looking models (they were all at least 18) lounged about semi-suggestively in a wood-paneled basement. The ads were “merely the latest proof that some businesses are willing to push the envelope of gratuitous sex and exploitation of children as far as possible if it’s good for the bottom line,” Hillary snarled in her syndicated column, as the Department of Justice prepared an investigation that would eventually turn up zero wrongdoing. “The pervasive influence of exploitative advertising touches every aspect of our lives... Today, it’s as if our society is a highway full of car wrecks. Only worse.”

The outrage reached full throat with Clinton’s bestselling 1996 book *It Takes a Village: And Other Lessons Children Teach Us*, which preceded a series of West Wing browbeat-

ing sessions that year with television executives. “I cannot stress too much,” the first lady said while promoting the book on WAMU Radio in January 1996, “that if I could do one thing to help children in our country, it would be to change what they see in the media, day in and day out.”

The “Seeing Is Believing” chapter in *It Takes a Village* is an open-handed slap to what remains of the progressive conceit about lefties championing transgressive cultural expression in defiance of puritanical scolds. In it, Clinton praises Tipper Gore’s “courage” in pushing for warning labels on records, hails the virtues-polemicist William Bennett for successfully pressuring Time Warner to sell off Interscope Records because of the “offensive lyrics” found in that company’s “‘gangsta’ rap,” accuses broadcasters of “hiding behind the First Amendment,” and blames TV news in part for the fact that “many children grow up skeptical that organized religion can offer guidance and sustenance” because all that negative programming “undermines their faith in institutions.”

Above all, Clinton makes the repeated assertion that we just *know* children are being materially damaged by television. “Whether, and under what circumstances, the violence people see on television and at the movies actually incites violent acts is a question researchers have debated for years,” she writes, in a typical passage. “As with smoking and lung cancer, however, we know that there *is* a connection.”

We actually knew no such thing in 1996, and know something closer to the opposite two decades later. Researchers have indeed demonstrated what our own eyes tell us: that movies and television and video games have gotten considerably more violent over the years. Yet during the past two decades, during which the video game industry—which Clinton shifted her attention to in 1999—went from marginal to ubiquitous, the violent crime rate in the United States, including by juveniles, has been cut in half. As the Villanova psychologist Patrick Markey and his colleagues concluded in an October 2014 study comparing the consumption of cinematic mayhem to the perpetration of the real-world stuff since 1960, “Contrary to the notion that trends in violent



films are linked to violent behavior, no evidence was found to suggest this medium was a major (or minor) contributing cause of violence in the United States.”

The academic literature about video games and violence is more contested. Roughly, researchers largely agreed with Clinton before much evidence was in; now there’s a fiercely polarized debate. But where more cautious politicians might be circumspect as the science works itself out, Hillary Clinton was and continues to be emboldened by certainty in how children absorb media. “They take those messages to heart like...little VCRs, and they play back what they have learned,” she asserted in a 1996 speech to the Parent-Teacher Association. Nine years later, at a Kaiser Family Foundation speech, the song remained the same: “The body of data has grown and grown and it leads to an unambiguous and virtually unanimous conclusion: Media violence contributes to anxiety, desensitization, and increased aggression among children.”

### **‘This Bill Is...Not an Attack on Free and Creative Expression’**

The book tour for *It Takes a Village* served as a rolling promotional campaign for the Clinton administration’s signature entertainment-content legislation—the Communications Decency Act of 1996. The law, part of a broader Telecommunications Act, mandated that every television sold in America with a screen 13 inches or larger come pre-installed with a “V-chip,” a programmable device allowing parents to screen out objectionable content as determined by a “voluntary” ratings system that the television

industry would be encouraged heavily to adopt. “I believe that these past few months have marked a hopeful turning point for families and their relationships to those TV sets in their homes,” the first lady crowed four months after her husband signed the Telecommunications Act into law.

The most controversial part of the CDA was a provision mandating punishment of up to two years in prison and \$250,000 in fines for anyone caught publishing “patently offensive” material on the Internet where minors could access it. The ACLU immediately challenged this section on First Amendment grounds, and in June 1997 the Supreme Court agreed by a 7-2 vote.

“Under the CDA, a parent allowing her 17-year-old to use the family computer to obtain information on the Internet that she, in her parental judgment, deems appropriate could face a lengthy prison term,” Justice John Paul Stevens wrote for the majority in *Reno v. American Civil Liberties Union*. “In order to deny minors access to potentially harmful speech, the CDA effectively suppresses a large amount of speech that adults have a constitutional right to receive and to address to one another. That burden on adult speech is unacceptable.”

In response to that ruling, Hillary Clinton promoted, lawmakers passed, and Bill Clinton signed the Child Online Protection Act of 1998, which made the online selling or transferring of “material that is harmful to minors” (as determined by “community standards”) punishable by up to six months in prison. The law was almost immediately tied up in the court system, with a 5-4 Supreme Court majority in 2004’s *Ashcroft v. the American Civil Liberties Union* warning that “content-based prohibitions, enforced by severe criminal penalties, have the constant potential to be a repressive force in the lives and thoughts of a free people.” SCOTUS killed the law once and for all in 2009.

In April 1999, while COPA was still tied up by an injunction, Hillary Clinton kicked off her first Senate campaign by

**Several laws that Clinton has championed, including the Communications Decency Act and the Child Online Protection Act, were opposed by the American Civil Liberties Union and struck down by the Supreme Court as violations of the First Amendment.**

calling for still more government intervention into media after teenagers Eric Harris and Dylan Klebold slaughtered 13 people at Columbine High School in Littleton, Colorado.

“We can no longer shut our eyes to the impact that the media is having on all of our children, and on the potentially violent impact it is having on some,” Clinton said during a Niagara Falls speech, as the national media was leaping to the conclusion—later demonstrated to be false—that the killers plotted their attack using violent video games. While hailing the administration’s work on the V-chip and online porn, the candidate concluded that the rise of gaming and the Internet had made the screen-based universe too unwieldy to regulate with existing rules. “The problem of course is, as anyone will quickly recognize, that there is so much of it, we are awash in it....We are going to have to do some serious thinking in our country about how we will take more control over what our children see, and what they experience, and how they understand what they see and experience.”

As a freshman senator, Clinton wasted little time in following the unconstitutional blueprint of the CDA and COPA, usually with the help of her friend Sen. Joseph Lieberman (I-Conn.), of whom she said at the 2000 Democratic National Convention: “I admire Joe’s work to reduce the violence in our media.” In May 2001, Clinton and Lieberman co-sponsored the Media Marketing Accountability Act, which would have imposed federal fines of up to \$11,000 per day for “the targeted marketing to minors of adult-rated media.”

Since the ratings guidelines that determined what is and isn’t “adult” were still voluntary (though the act also called for the Federal Trade Commission to create its own system, in order to simplify what Clinton decried as the “alphabet soup” of different industries’ self-evaluations), the law would have discouraged producers and distributors from having ratings in the first place, since only then

would they expose themselves to the risk of federal sanction. As the nonpartisan Congressional Research Service concluded in an unusually opinionated June 2001 analysis, “The bill could impose a possible financial burden on speech, and that, as well as outright censorship, may violate the First Amendment.”

Unsurprisingly, the entertainment industry balked. Recording Industry Association of America General Counsel Cary Sherman warned that the legislation “raises serious constitutional red flags.” Motion Picture Association of America CEO Jack Valenti called it “a death sentence bill for voluntary film ratings.” A defiant Clinton warned Hollywood that it had better stick to its rating system, or else. “If there is a move on the part of anyone to discard this kind of voluntary labeling or to turn their backs on this because finally we’re feeling compelled to put some teeth into the enforcement,” she told CNN, “I think we’d have to take a hard look at that.” She never got the chance: The Media Marketing Accountability Act died in committee.

But Clinton and Lieberman were just getting started. In 2005, the duo teamed up with socially conservative Sens. Rick Santorum (R-Pa.) and Sam Brownback (R-Kan.) to introduce the Children and Media Research Advancement (CAMRA) Act, creating a \$90 million federal research program to study the impact of media on childhood violence, obesity, and intellectual development. “I think it is as important a public health issue as any we can worry about with our children,” Clinton told the Kaiser Family Foundation the week she introduced the bill.

That Kaiser speech was filled with unwitting

**“What we are doing today, exposing our children to so much of this unchecked media, is a kind of contagion,” Clinton said in a 2005 speech. “We are conducting an experiment on this generation of children and we have no idea what the outcomes are going to be.”**

ting admissions of her own futility (“Bill and I tried to implement some strategies, some rules, some regulations, but it wasn’t quite as difficult 25 years ago as it is today....You know, no longer is something like the V-chip the ‘one stop shop’ to protect kids”). It also characterized childhood media exposure as a “silent epidemic,” analogizing it to the deadly SARS virus.

“You know, if you hear that there is a child with an infectious disease in your school, you’re going to be worried, and you might not send your child to school, and you’re going to call and make sure that this child with the infectious disease has been properly treated and can’t be contagious,” she said. “Well, in effect, if you think of this from a public health perspective, you know, what we are doing today, exposing our children to so much of this unchecked media, is a kind of contagion. We are conducting an experiment on this generation of children and we have no idea what the outcomes are going to be.”

Despite the many censorious implications in the bill and accompanying public relations campaign (including that a uniform ratings system be imposed and then “shown throughout every program or at least after every commercial break”), Clinton’s latest bipartisan anti-media initiative was interpreted widely by the national press not as an alarming encroachment on speech, but as a canny political gambit. “What’s Hillary up to?” asked Eleanor Clift of *Newsweek*. “She’s laying the groundwork for a presidential run in ’08, and she’s paying attention to the voters.” That groundwork failed on both counts: CAMRA passed the Senate but got nowhere in the House.

Undeterred, Clinton and Lieberman marched on with something much bigger: the Family Entertainment Protection Act (FEPA), making it a federal crime punishable by a \$1,000 fine or 100 hours of community service to sell video games rated “mature” or “adults only” to anyone under 17. (Subsequent convictions would tack on \$5,000 or 500 hours of service.) The act also tasked the Federal Trade Commission with evaluating the gaming industry’s voluntary rating system, conducting annual secret audits of retailers, and hunting down hidden game content, such as the then-controversial sex sequence

embedded deep into *Grand Theft Auto: San Andreas*. “This is a terrible problem that needs to be fixed,” Clinton said when introducing FEPA on the Senate floor in December 2005. “And this bill does just that.”

Perhaps stung at this point by the serial constitutional objections to her prior go-rounds against content providers, Clinton’s introductory speech was downright defensive. “I want to be clear—this bill is not an attack on video games,” she insisted. “This bill is also not an attack on free and creative expression. Relying on the growing body of scientific evidence that demonstrates a causal link between exposure to these games and antisocial behavior in our children, this bill was carefully drafted to pass constitutional strict scrutiny.”

Each of Clinton’s assertions was subsequently rejected in a series of court decisions, culminating in the Supreme Court’s 7–2 ruling in 2011’s *Brown v. Entertainment Merchants Association*, which overturned a California video game law that Clinton and company had used in crafting FEPA. The state, wrote Justice Antonin Scalia in his majority opinion, “cannot show a direct causal link between violent video games and harm to minors.” As a result: “The Act does not comport with the First Amendment.”

Clinton’s two-decade-old theory about media consumers being unwitting vessels for malevolent actors had now been rejected at virtually every judicial level. FEPA was a nonstarter even before all that, failing to reach the Senate floor. But policy is not made by legislation alone, as the first lady-turned senator would soon demonstrate as secretary of state.

### **‘We Are Going to Have the Filmmaker Arrested Who Was Responsible for the Death of [Your] Son.’**

Before Benghazi, Secretary of State Clinton’s record on Internet freedom and global free speech actually received positive marks from openness advocates. At a January 2010 speech at the Newseum, she made a strong case against international censorship. “The Internet is a network that magnifies the power and potential of all others,” she said. “And that’s why we believe it’s critical that its users are assured certain basic freedoms. Freedom of expression is first among them.”

But even in this, the arguable high-water mark of Clinton’s free speech record, her doubts about expression bubbled constantly to the surface. “The same networks that help organize movements for freedom also enable Al Qaeda to spew hatred and incite violence against the innocent,” she warned in one passage. And then: “Now, all societies



recognize that free expression has its limits. We do not tolerate those who incite others to violence, such as the agents of Al Qaeda who are, at this moment, using the Internet to promote the mass murder of innocent people across the world. And hate speech that targets individuals on the basis of their race, religion, ethnicity, gender, or sexual orientation is reprehensible. It is an unfortunate fact that these issues are both growing challenges that the international community must confront together. And we must also grapple with the issue of anonymous speech.”

So given this wariness and long track record, it shouldn’t have been surprising that when angry mobs gathered outside U.S. diplomatic posts throughout the Muslim world on September 11, 2012, the department run by Hillary Clinton pre-emptively pointed the finger at a violent video—in this case an amateurish piece of YouTube cinema made by a dodgy resident of Cerritos, California, named Nakoula Bas-seley Nakoula.

“U.S. Embassy Condemns Religious Incitement,” ran the headline atop a statement released that morning from besieged diplomatic personnel. It alluded to but did not mention Nakoula’s July 2012 trailer for an anti-Islam fantasy titled *Innocence of Muslims*, of which a two-minute clip (with Arabic dubbing) had been broadcast and denounced on the Egyptian TV station Al-Nas by an Islamist pundit on September 8. “The Embassy of the United States in Cairo condemns the continuing efforts by misguided individuals to hurt the religious feelings of Muslims.... We firmly reject the actions by those who abuse the universal right of free speech to hurt the religious beliefs of others.”

“Incitement” in American free speech jurisprudence has a specific legal meaning, and this isn’t it. According to the Supreme Court, speech can only be found to *incite* people when it is both intended and likely to produce “imminent lawless action.” In the case of Cairo, it turned out there *was* imminent lawless action, in the form of a mob ransacking the U.S. embassy just hours after this unsuccessfully prophylactic press release, but the person who incited the mob was someone on the ground who said, “Let’s attack the compound,” not some would-be polemical filmmaker 7,500 miles away.

Amazingly, the diplomats kept playing film critic even after their embassy walls were breached. “This morning’s condemnation (issued before protests began) still stands,” the official embassy account tweeted, in a post that was later taken down. Though Clinton’s State Department quickly distanced itself from its embattled employees (“The statement by Embassy Cairo was not cleared by Washington and

does not reflect the views of the United States government,” an unnamed administration official soon said), the secretary herself began a wobbly rhetorical balance that continues to this day: singling out *Innocence of Muslims* for condemnation, pointing out that it offers no excuse for the violence that threatened diplomatic posts in nearly a dozen countries, and yet blaming it in part for the deadly pre-planned attacks in Benghazi, Libya.

“The United States deplores any intentional effort to denigrate the religious beliefs of others,” Clinton said in a September 11 statement. “Our commitment to religious tolerance goes back to the very beginning of our nation. But let me be clear: There is never any justification for violent acts of this kind.”

In the Supreme Court’s First Amendment case law, there is a concept known as the “heckler’s veto”—the unconstitutional government suppression of speech out of concern over possible reaction to it. In 1969’s *Tinker v. Des Moines*, the Court rejected the notion that fear of disruption was sufficient to bar high school students from wearing black armbands in protest of the Vietnam War.

In the private sphere, “heckler’s veto” is used more casually to characterize acts that shut down others’ expression (as in a heckler disrupting a speech) or acts of pre-emptive self-censorship made in deference to the heckler’s beliefs or threats. When the overwhelming majority of American newspapers refused to reprint images from Danish anti-Mohammed cartoons that were used to justify violence that ended up killing more than 200 people worldwide in 2006, free speech advocates argued that the hecklers had won by getting non-Muslim publications to agree not only with their censorious ends, but with their overall critique that the images were offensive. There is a strategic component to the behavior of both parties; in the words of University of California, Los Angeles First Amendment scholar Eugene Volokh, “Behavior that gets rewarded gets repeated.”

In the days after September 11, 2012, Hillary Clinton effectively rewarded the Islamists’ bad behavior by emphasizing the U.S. government’s

agreement with their artistic critique. And the Obama administration skirted within shouting distance of the Supreme Court definition of a heckler's veto on September 12, when it asked YouTube to check whether the *Innocence of Muslims* trailer violated that company's rules against "hate speech" and should therefore be taken down. Google, which owns YouTube, kept the trailer up in the U.S., though it did censor the video in Egypt and Libya. Recently uncovered emails show Clinton's State Department communicating with Google on September 27 to make sure a "block" on an unnamed video remained in place until October 1.

On September 13, Clinton drew a direct link between the art and the violence: "I...want to take a moment to address the video circulating on the Internet that has led to these protests in a number of countries," she said. "Let me state very clearly—and I hope it is obvious—that the United States government had absolutely nothing to do with this video. We absolutely reject its content and message....To us, to me personally, this video is disgusting and reprehensible. It appears to have a deeply cynical purpose: to denigrate a great religion and to provoke rage." The State Department spent \$70,000 broadcasting an edit of this message (spliced with similar sentiments from President Barack Obama) in Pakistan. And Obama singled out *Innocence of Muslims* for criticism in a September 25 address to the United Nations: "I believe its message must be rejected by all who respect our common humanity," he said. "The future must not belong to those who slander the prophet of Islam."

To this day, Clinton rejects the notion that

extravagantly denouncing the video only encourages the next potentially murderous act against Western free speech. In fact, she believes her art criticism saved lives. "We had protests...all the way to Indonesia," she told Congress in October. "Thankfully, no Americans were killed, partly because I had been consistent in speaking out about that video from the very first day when we knew it had sparked the attack on our embassy in Cairo."

The word *sparked* is crucial here. American ambassador to the United Nations Susan Rice famously used it while making the rounds on the Sunday morning talk shows on September 16—"What sparked the recent violence was the airing on the Internet of a very hateful, very offensive video that has offended very many people around the world." Clinton used it in front of Congress to describe the January 2015 *Charlie Hebdo* attacks, as a way of defending her continued emphasis on *Innocence of Muslims* as a partial explanation for Benghazi. "I think it's important that we look at the totality of what was going on. It's like that terrible incident that happened in Paris...[in which] cartoons sparked two Al Qaeda-trained attackers who killed...nearly a dozen people."

But the metaphor is wrong in important respects that have implications for both speech and foreign policy. *Innocence of Muslims*, like the Danish cartoons before it, hung around unnoticed for months until they were picked up and spread around by Islamists looking to gin up outrage. These pieces of expression, in other words, were *kindling*, of which there is a nearly infinite supply. The Muslim-world popularizers poured metaphorical lighter fluid on the material they plucked from obscurity, and angry rioters caused the conflagration. By confusing spark with kindling, Hillary Clinton and other U.S. officials (plus many American intellectuals) are diverting some of the responsibility for violence away from the perpetrators and toward the creators of controversial speech.

**In October 2015, Clinton claimed the murdered cartoonists of the French satirical newspaper *Charlie Hebdo* "sparked" their own assassinations by drawing caricatures of Mohammed—the free expression equivalent of blaming rape victims for wearing short skirts.**

You can see this throughout the Benghazi chapter in Clinton's latest memoir, *Hard Choices*. "This was not the first time that provocateurs had used offensive material to whip up popular outrage across the Muslim world, often with deadly results," she writes. Amazingly, she is not talking about the Islamists who dubbed *Innocence of Muslims* into Arabic and then broadcast it with fiery denunciation on Egyptian television, but rather the originator of the art, Nakoula Basseley Nakoula. Next sentence: "In 2010, a Florida pastor named Terry Jones announced plans to burn the Quran, Islam's holy text, on the ninth anniversary of 9/11." Once you begin to pin responsibility for faraway violence on acts of peaceful (if vulgar) free speech in America, the only thing standing between an artist and prison is an available crime.

On September 14, 2012, Hillary Clinton, Obama, and Vice President Joe Biden attended an Andrews Air Force Base ceremony for the surviving family members of the four U.S. personnel killed in Benghazi. If what some of those family members say about that meeting is true, the likely Democratic presidential nominee uttered one of the most chillingly anti-speech sentences from an American politician since Richard Nixon.

Charles Woods, the father of slain CIA operative Tyrone Woods, jotted down notes from that day in his diary. The passage about Clinton reads like this: "I gave Hillary a hug and shook her hand. And she said we are going to have the filmmaker arrested who was responsible for the death of my son." Two weeks later, Nakoula was arrested by federal authorities on charges of violating probation, for which he served one year in prison.

Woods, a retired lawyer and administrative law judge, has given consistent accounts of Clinton's remarks in several interviews over the past three years. "I remember those words: 'who was responsible for the death of your son,'" he told *The Weekly Standard's* Stephen Hayes in October 2015,

while watching the former secretary of state's latest congressional testimony. "She was blaming him and blaming the movie."

Woods wasn't the only bereaved family member who heard a similar message that day. Patricia Smith, mother of the murdered Sean Smith, has testified in Congress (and reiterated in interviews) that Clinton told her "it was the fault of the video." A third witness, Kate Quigley, sister of Glen Doherty, told Boston Herald Radio in December that Clinton "knows that she knew what happened that day and she wasn't truthful. And you know that has come out in the last hearings, that she's told her family one thing and told the public another thing."

The October Benghazi hearing unearthed State Department notes from a Clinton phone call on September 12 in which she gave an altogether different version of events to Egyptian Prime Minister Hesham Kandil. "We know that the attack in Libya had nothing to do with the film," the note quotes Clinton. "It was a planned attack—not a protest." An email to her daughter Chelsea the night before (which is what Kate Quigley was referring to) stated that "two of our officers were killed in Benghazi by an al-Qaeda like group," which would also suggest a pre-planned attack more than the spontaneous mob outrage that Susan Rice was selling as late as September 16. At the hearings, Clinton chalked up these mixed messages to the fog of war: "There was a lot of conflicting information that we were trying to make sense of."

But that sense of nuance was absent from many Obama administration comments at the time. On the same day as the Andrews Air Force

**If the family members of two different fallen service members are correct, Clinton placed direct culpability for the Benghazi attack on a California-based filmmaker and perhaps even vowed to have him arrested.**



ceremony, White House spokesman Jay Carney stated categorically that the attack was “in response not to United States policy, not to obviously the administration, not to the American people. It is in response to a video, a film that we have judged to be reprehensible and disgusting.”

And if the family members of two different fallen service members are correct, Clinton placed direct culpability for the attack on a California-based filmmaker and perhaps even vowed to have him arrested, something far outside the usual purview of a U.S. secretary of state.

On December 6, 2015, faced for the first time with questioning about what she said to Charles Woods and the others that day, Hillary Clinton told ABC’s *This Week* that the survivors got their stories wrong.

“Some...family members of the Benghazi victims are saying you lied to them,” George Stephanopoulos said. “The family members, as you know, say you told them it was by a filmmaker, you’d go after the filmmaker....Did you tell them it was about the film? And what’s your response?”

Hillary’s response? “No.”

And the mainstream political media’s response to this startling, potentially significant discrepancy? Almost total silence.

### The 3 A.M. Phone Call

The First Amendment, and the American culture of free speech, come under the most pressure during times of acute national or international stress. The Sedition Act of 1798, criminalizing criticism of the federal government, was passed when the fragile young country was skirmishing with imperial France. Woodrow Wilson signed his own Sedition Act in the war-torn year of 1918. The post-9/11 world has seen unprecedented government crackdowns on leakers, journalists who protect their sources, and whistleblowers. (Regarding the latter, Hillary Clinton said during an October presidential debate that National Security Agency dissident Edward Snowden “broke the laws of the United States. He could have been a whistleblower. He could have gotten all of the protections of being a whistleblower. He could have raised all the issues that he has raised. And I think there would have been a posi-

tive response to that.” The fact checkers at *PolitiFact* rated the claim “mostly false.”)

In the immediate aftermath of the Danish cartoon controversy, of Benghazi, of *Charlie Hebdo*, and of the San Bernardino attacks, there have been renewed calls in the United States for scaling some of that free speech stuff back. “ISIS Influence on Web Prompts Second Thoughts on First Amendment,” *The New York Times* headlined a piece on December 27.

So how will Hillary Clinton handle that next moment of stress? Well, look at how she’s responded to San Bernardino: by breathing heavily down the neck of Silicon Valley to shut down jihadist communication on the Internet. “That would be constitutional if voluntary, legal experts say,” the *Times* article notes dryly, “but not if the government exerted pressure on private firms to cooperate in censorship.”

Attempting to patrol the space between communicators and their audiences is what Clinton does. “I’ve spent more than 30 years advocating for children and worrying about the impact of media,” she said in a speech 10 years ago. Since then, she has focused increasingly on the threat of Islamic terrorists, and their ability to use the technology she has always distrusted. The Supreme Court may serve as a vigorous bulwark against legislation that encroaches on the First Amendment, but it is more deferential when the executive branch exercises its national security prerogatives. A second President Clinton will almost certainly test those limits. When it comes to the mythical “balance” between liberty and security, she knows damn well what side she’s on.

“It doesn’t do anybody any good if terrorists can move toward encrypted communication that no law enforcement agency can break into before or after,” she said during the December Democratic debate. “I just think there’s got to be a way, and I would hope that our tech companies would work with government to figure that out. Otherwise, law enforcement is blind—blind before, blind during, and, unfortunately, in many instances, blind after. So we always have to balance liberty and security, privacy and safety, but I know that law enforcement needs the tools to keep us safe.” ■

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A photograph of the interior of a cannabis club in Barcelona. A woman with long dark hair, wearing a white cardigan with a black geometric pattern, is standing at a dark wooden counter. She is looking down at a small digital scale and a clear container on the counter. Behind the counter, a man and a woman are partially visible. The background features a large screen displaying a blue and white abstract image. To the right, a large chalkboard menu lists various cannabis products. The scene is dimly lit with warm, orange-toned lights.

# Barcelona's Pot Boom and Bust

The uncertain fate of cannabis clubs in “the Amsterdam of southern Europe”

*Malia Politzer*



IT WAS 7 P.M. on July 10, 2014. Albert Centellas was smoking a joint in the spacious lounge of Club Kali, a quasi-legal cannabis club an hour's drive south of Barcelona. He heard a loud bang, like a thunderclap, and then another. The police were breaking down the door.

Dozens of officers in riot gear rushed in, guns drawn, and ordered everyone to stand with their hands above their heads while the remaining cops, aided by drug-sniffing dogs, searched the club. Centellas' arms ached as he and the others were held at gunpoint for the next two hours. The search ended with the seizure of all the club's marijuana products, and with the arrest of the club's president, vice president, treasurer, doorman, and two of its cannabis gardeners, on charges of money laundering and crimes against public health.

The next day, the police raided a second club, the Asociación Independiente Recreativa de Autoconsumo y Medicinal (AIRAM) in Barcelona. Over the next several months, dozens of other cannabis social clubs throughout Catalo-

nia would be closed down on drug trafficking and public health-related charges.

"We take a risk, because we understand that sometimes taking risks and creating conflict is the only way to transform the law," explains Albert Tio, president of both AIRAM and La Federació d'Associacions Cannàbiques Autoregulates de Catalunya (FEDCAC), an association of Barcelona's cannabis clubs. Tio's movement aims to expand the legal use of marijuana in Spain, and perhaps one day introduce a fully legal commercial trade in pot.

Cannabis social clubs are central to this strategy. The members of these noncommercial collectives pool their resources to cultivate enough marijuana to meet their personal needs, then consume the pot in members-only establishments. In 2011, just 40 such cannabis clubs existed in Catalonia. By 2014, according to Tio, that number had jumped to more than 500 with over 165,000 members—earning Barcelona the nickname "the Amsterdam of southern Europe."

The clubs are at least arguably following the law. Spain allows individuals to grow a limited amount of marijuana for personal use, and there is a widespread tolerance in Spanish culture for shared consumption. Spanish law



Previous page: La Mesa cannabis club (All photos by Tomas Conde Kemme)  
This page: Albert Tio

**In Spain, individual use and cultivation are permitted in the privacy of your own home, but pot consumers are subject to stiff fines if they are caught with even a small amount in a “public space.”**

doesn't penalize people for consuming cannabis products so long as they are consumed in private, just for buying or transporting them. But as we'll see, the clubs' legal status is anything but certain. Over the past year, an aggressive crackdown in Barcelona shut many of them down. The remainder exist in a legal gray area.

But that could soon change. Catalonia's cannabis activists have drafted a citizens' initiative called the Rosa Verde—the Green Rose—that would formally legalize and regulate the Cannabis Social Clubs, bringing a long legal cat-and-mouse game to an end.

### **Drug Reform Across Europe**

The liberalization of marijuana laws has been slowly spreading across Europe. In 2001, Portugal became the first country on the continent to officially abolish all criminal penalties for possession of drugs for personal use, including hard drugs such as heroin and cocaine. Since then, Switzerland, the Czech Republic, and Belgium have decriminalized the possession of small quantities of pot for personal use, though smokers may still be subject to administrative fees and misdemeanor charges. The Czechs have also legalized medical marijuana recently, as has France. Italian legislators are considering a bill that would largely decriminalize the distribution, sale, and consumption of marijuana throughout the nation. In November, Ireland passed a sweeping reform that will decriminalize marijuana, heroin, and cocaine.

At the same time, some of Europe's most progressive drug regimes contain elements of hypocrisy. The Netherlands is famed for its cannabis coffee shops. Yet selling cannabis—even at a coffee shop—is technically a criminal offense there; it's just that the authorities “tolerate” it. Possession is technically a crime too, though it is rarely prosecuted for small amounts. The transportation of marijuana is also officially illegal.

Spain's drug policy is even more contradictory. Though individual use and cultivation are permitted in the privacy of your own home, pot consumers are subject to stiff fines if they are caught with even a small amount in a “public space.” Bucking the trend toward decriminalization, the center-right Partido Popular passed a new public safety law, known colloquially as the “Gag Law,” in 2015. It doubles the “administrative” fines for possessing narcotics to €600, with a possible penalty of €601 to €30,000 for “serious offenses” such as “acts of planting drugs not constituting a crime in areas visible to the public.” It imposes new conditions on home growing, including hefty administrative sanctions, and it eliminates the option of entering a rehabilitation program in lieu of paying a fine.

Meanwhile, the Catalan cannabis activists have been taking matters into their own hands.

### **Cannabis Revolution**

Catalonia, an autonomous region of Spain where many citizens have been pushing for full-fledged independence, has long been an innovator in drug policy. When HIV hit Barcelona in the 1980s, for example, the city was one of the first places to adopt a needle exchange program and to create “drug consumption rooms,” policies aimed at harm reduction rather than punishment. The region's cannabis clubs developed slowly, through trial and error, as a group of Barcelona-based activists aimed to push the limits of Spain's drug laws.

The idea first emerged in the back of a Barcelona comic store called Makoki. Club Kali founder Angel Benito remembers hanging out

**Most cannabis social clubs follow a set of self-imposed regulations. The members must all be adults, and to assure authorities that they are not “spreading addiction,” none may be first-time users.**

in that back room as a teenager in the mid-1990s, smoking pot and talking politics. In the bookstore’s early days, someone had suggested a version of the cannabis-club idea. Almost immediately the smokers “started talking about what can be done to push this forward. They wanted to make it a reality.” So the Ramon Santos Association for Cannabis Studies (ARSEC) collective was born.

The group’s first move was to send a letter to the Spanish anti-drug public prosecutor asking whether it would be considered a crime to cultivate cannabis for use by a group of adults, so long as they grew just enough pot to provide each consumer with their legal limit. The ambiguous response: While cultivating for personal consumption was permitted, cultivation for a group would be “challenging to categorize.”

Sensing an opening, the activists gathered a group of 100 people and planted around 200 pot seeds near Tarragona. They were careful to limit themselves to a yield that would provide the members with no more than their legally permitted amount. But when harvest time came, the police seized the plants and arrested those responsible on charges of “transgression against public health.” The provincial court acquitted them, but the Supreme Court then reversed the decision, giving the defendants prison sentences (later dropped) and fining them for “negligent endangerment.”

Two years later, despite the court’s decision, the group decided to pursue the path of civil disobedience and do it again. This time they weren’t alone: A Bilbao-based group called the Kalamudia Association decided to attempt the

cultivation of 600 plants for 200 people. Unlike the ARSEC crew’s initial attempt, it avoided legal action, and was able to successfully harvest the crop.

At around the same time, the regional government of Andalucía, a province in the south of Spain, commissioned a report on the possibility of setting up establishments where people could use pot, while respecting Spain’s current drug laws. The report, published in 1999, concluded that it could be done, so long as they were “centers that are not open to an indiscriminate public, but where access is restricted to hashish or marijuana smokers. As a method of controlling access, people would have to be regular users. These would be places of private consumption among regular users, where they would be able to obtain and consume quantities



Martí Cànoves Llità



that would not exceed the fixed consumption limit.” This document sowed the seeds for today’s cannabis clubs.

Enter Martí Cànaves Llitrà, a Barcelona-based criminal lawyer with a history of challenging authority. Born in Mallorca, an island off the coast of Valencia, Cànaves says he was drawn to the study of law in order keep himself and his friends out of trouble. That soon matured into something larger. “I wanted to fight for personal freedoms,” he says. “I was frustrated by the hypocrisy of the drug laws and wanted to do something about it.”

Working with one of the early clubs, the Barcelona Personal Use Cannabis Association (ABCDA), Cànaves advised its members to sign contracts agreeing to abide by a specific set of statutes. He then sent the documents to the public prosecutor for her approval, and after getting that green light Cànaves told the club to go ahead. When the police eventually raided the club, the leaders of ABCDA got off without any legal action. Thus, the current model of the cannabis social club was born.

Today, more and more cannabis clubs in Barcelona are registering as legal entities. Most follow a set of self-imposed regulations, which emerged from a series of talks between federation leaders and public health authorities. The clubs’ members must all be adults. They must not be first-time users (a gesture meant to assure authorities that they are not “spreading addiction”). Membership fees—which vary from group to group—go toward cultivation, club maintenance, and paying an independent engineer who confirms that the number of plants being grown falls under the legal limit.

Many of the clubs have even been paying taxes, sending the government roughly 20 percent of the money that changes hands when a member cashes in for his or her “share” of cannabis. Cànaves sees that as leverage in his ongoing campaign to legalize marijuana. “We’ve sent them about €250,000,” he says. “Even while the government says it’s illegal, they’ve never offered to return the tax revenue.”

The number of clubs in Barcelona expanded, yet the push for legalization was stalled. Then Cànaves had another idea. He just needed to find the right partner to make it a reality. Enter Bernat Pellisa, the mayor of Rasquera.

### Marijuana Village

At first glance, Rasquera doesn’t have much to offer tourists. A tiny agricultural pueblo at the base of a mountain in the province of Tarragona, it boasts just one small plaza, two bars, and the ruins of a castle. Around the periphery



of the village, neglected homes with crumbling stone walls and boarded up windows languish, abandoned by families pursuing better opportunities elsewhere. Just 900 residents remain today. There are so few children that the secondary school has closed.

But in 2012, the tiny town made international headlines. Mayor Pellisa announced that he planned to finance the town’s public debt—roughly €1.3 million—by creating a public company that would cultivate cannabis for a 5,000-member club in Barcelona.

“The village was dying,” Cànaves explains. “It was a way for them to get economic independence, to fix the village in the map, create a brand: green tourism and a paradise for cannabis lovers.” It was also a way to show the world—and the Spanish government—the economic potential of legalizing cannabis.

“We really needed financing,” recalls Pellisa, who left office in 2013. “I won the election on an anti-crisis platform, for a project that was supposed to bring jobs and new economic life to the pueblo. This was the answer.” After a lot of door-to-door canvassing and some town-hall meetings, the village held a referendum. The plan passed with 56 percent of the vote.



ABCEA would pay the town €650,000 a year to grow its annual supply. The cultivation would take place on a seven-hectare stretch of land belonging to the town hall, with unemployed members of the pueblo hired to do the farming. (The cannabis crop would be rotated with cereals and sugarbeets.) The organizers also had plans to found a research center to investigate various uses for the plant. Pellisa expected the idea to create 40 jobs and allow the town to pay off its debt in just two years. Without the pot, it might take them 30.

A year later, before the plants could be harvested, the Spanish judiciary suspended the project.

Cànaves says he suspected from the start that the operation would be shut down. Still, he believes it was worth the effort. “We needed to show that there was public support behind the idea—and there is,” he says. “With the popularization of the cannabis social clubs, and the support of a democratically elected leader in a small

village in Spain, we can show the government that this is a model that people will support.”

With the defeat of the Rasquera project, Cànaves turned his attention to a project he hopes will legalize the social clubs once and for all: the Rosa Verde. This law would formalize many of the rules adopted by FEDCAC members into legislation, and it would also spell out how clubs can legally cultivate and transport marijuana.

### The Green Rose

From the outside, La Mesa looks like just another abandoned storefront. The entrance is locked, its windows are blocked with butcher paper depicting flickering flames, and there’s no sign to identify it. Most people would probably just walk by, writing it off as another casualty of Spain’s decade-long economic crisis. But Albert Tio approaches the entrance, hits a buzzer, and watches the door click open.

Inside, the club looks like a cross between an elegant cocktail bar and an artsy coffee lounge. Large photographs of a joint-smoking guru adorn the walls above mismatched vintage sofas, where a young artist and an eclectic group of distinguished-looking older professionals sit and smoke.

## In 2012, the mayor of tiny Rasquera announced a plan to create 40 jobs and finance the town's debt by creating a public company that would cultivate cannabis for a club in Barcelona.

Jazz plays in the background. After signing in, Tio heads to a bar, where an array of gourmet pot products are on display, averaging €5 per serving. He buys a drink and retires to one of the couches, where he rolls a joint using marijuana he cultivated at home, lights it, and takes a long drag.

One of Barcelona's largest and most popular cannabis clubs, La Mesa currently boasts a membership of more than 5,000 people. Tio joined when La Mesa first opened, and started frequenting the club after AIRAM was shut down, though he mostly prefers to smoke his own weed. Clubs come in all shapes and sizes. Some, like this one, are primary recreational. Others are staffed with doctors, catering to members more concerned with access to medical marijuana. One intimate club has a membership of only women over the age of 80.

But over the past year, a series of raids and crackdowns has threatened the status of Catalonia's clubs. Recently, more than 50 clubs closed when former Barcelona Mayor Xavier Trias, of the Convergència de Catalunya party, promised to push through zoning restrictions requiring all clubs within 150 meters of schools, libraries, hospitals, and gyms to close, which would have shut down 80 percent of existing facilities. Before they could be put into effect this year, Barcelona's new mayor, Ada Colao, an anti-eviction activist and member of the far-left party Podemos, reversed the zoning restrictions.

In October, the Supreme Court dealt another blow, ruling that a Bilbao cannabis club's "structure and function exceeded the philosophy" of shared consumption. In the 100-page decision, the judges suggest that its membership must be far more limited if the club is to avoid vulnerability to trafficking charges.

As the president of FEDCAC, one of Albert Tio's primary jobs in the past several months has been to gather signatures in support of the Rosa Verde. To bring the initiative before the regional parliament, the activists need 50,000

signatures by the end of January. At that point the Catalan Parliament will discuss it and propose changes.

If the law passes, Catalonia will have legalized the social clubs. "It would be a great thing for us," Tio says. "People wouldn't have to live in fear of arrest. It would mean that we finally work with judicial security."

If the initiative fails, the movement will continue to try other avenues, says Tio. Right now, cannabis activists are also working on a similar proposal, called the *Regulación Resonable* (Reasonable Regulation), that they hope to introduce to the Spanish Parliament. They have already approached the four main parties—the Partido Popular, PSEO, Podemos, and Ciudadanos—for support. All except the Partido Popular have publicly expressed openness for discussing new marijuana regulations.

And then they could move on to more reforms. "The nonprofit model isn't a long-term solution," Cànaves says. "It's an intermediary initiative. People want to make money off of this. It's only natural, and I don't think there's anything wrong with that. What we need is a for-profit model—the commercialization of cannabis."

In Spain's current political climate, such a goal is a distant dream. But the Rosa Verde is a promising first step. ■

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*The Wasp*



A STATUE FOR *OUR* HARBOR.

"A Statue for Our Harbor," by George Frederick Keller. *The Wasp*, November 11, 1881  
(Courtesy Simon & Schuster)

## **‘The Chinese Must Go!’**

A look back at America’s first major exclusionary immigration law

*Erika Lee*

ON FEBRUARY 28, 1882, Sen. John F. Miller of California introduced a bill to exclude Chinese immigrant laborers from the country. For two hours, the former Union general presented his case. The Chinese, Miller said, posed an imminent danger, in part because they came from a “degraded and inferior race.” Other senators jumped in, calling them “rats,” “beasts,” and “swine.” Oriental civilization, they claimed, was incompatible with the United States and threatened to corrupt the nation.

Chinese immigrants also posed an economic danger to white workers, Miller said, through their “machine-like” ways and “muscles of iron.” The U.S. laborer, whether on the farm, the shoe bench, or the factory floor, simply could not compete with these low-paid counterparts. A vote for Chinese exclusion was thus a vote for both American labor and the public good.

There was minimal opposition to the law. Former Radical Republicans, such as Massachusetts Sen. George Frisbie Hoar, decried the act as “old race prejudice” and a crime against “the great doctrine of human equality affirmed in our Declaration of Independence.” But most members of both the Senate and the House agreed that the Chinese needed to be stopped. “The gate...must be closed,” Rep. Edward Valentine of Nebraska succinctly declared. Just over two months later, the Chinese Exclusion Act of 1882 became law.

Today, as the debate heats up over the economic and security implications of immigration, particularly with regard to Muslims, it’s worth looking back at America’s first law to single out an immigrant group for exclusion.

### ‘American Manhood vs. Asiatic Coolieism. Which Shall Survive?’

Americans were first introduced to the Chinese through reports from U.S. traders, diplomats, and missionaries, who tended to describe the foreigners as crafty, dishonest heathens. When significant numbers of Chinese immigrants started coming to the country, they were the largest group of nonwhite immigrants to the United States. Almost as soon as they arrived, questions were raised about whether they should be welcomed or expelled.

Demagogues such as Workingmen’s Party leader Denis Kearney blamed Chinese laborers for unemployment and low wages, capitalizing on a deep sense of economic insecurity during the depression of the 1870s. Anti-Chinese activists drew on earlier debates over Asian indentured labor in the Caribbean and Latin America, and they charged that the capitalists employing the Chinese were creating a new system of quasi-slavery to degrade U.S. workers. Samuel Gompers, president of the American Federation of Labor, framed the issue with a pamphlet titled *Meat vs. Rice—American Manhood vs. Asiatic Coolieism. Which Shall Survive?*

Industrialists, meanwhile, praised Chinese immigrants as an ample source of cheap, available labor to build the transcontinental railroad and to help develop the lumber, fishing, mining, and agricultural industries of the West.

Many restrictionist arguments stressed the sexual danger that both Chinese women and men allegedly posed to the country’s morals. Chinese prostitutes were accused of causing “moral and racial pollution” through their interracial liaisons; Chinese men were said to lure pure and innocent white women into dens of vice and depravity. The men were also seen as undermining acceptable gender roles by engaging in the “women’s work” of cleaning and cooking.

### ‘Filth, Immorality, Diseases, Ruin to White Labor’

Nineteenth century popular culture helped spread these caricatures. One cartoon titled “A Statue for Our Harbor,” published in 1881 in the San Francisco-based magazine *The Wasp*, encapsulated white California’s fears about Chinese immigration. It depicted a statue of a grotesque Chinese male coolie in San Francisco Bay mocking New York’s Statue of Liberty, then under construction. His ragged robes, rat-tail-like queue, stereotypical facial features, and opium pipe symbolized the supposed unassimilability and immorality of the Chinese. His foot rests on a skull, rats scurrying around the pedestal, as capsized ships languish under a slant-eyed moon. Rays of light emanating from the coolie’s head inform readers that the Chinese bring “filth,” “immorality,” “diseases,” and “ruin to white labor.”

By the time that cartoon was published, Californians had been trying to regulate Chinese immigration for decades. As early as 1850, the state passed its first anti-Chinese law, in the form of a foreign miner’s tax. Although the law was aimed at all foreigners, it was primarily enforced against the Chinese. In 1870, California collected \$5 million in taxes from Chinese immigrants alone, an amount that equaled a quarter to half of the state’s total revenue.

In 1854, Chinese immigrants were officially granted unequal status when the California Supreme Court ruled that they—along with African Americans and Native Americans—could not give testimony in court cases involving a white person. In support of its decision, the court argued that Chinese immigrants were a



“distinct people...whom nature has marked as inferior.” In 1855, California Gov. John Bigler signed a bill that taxed any master or owner of a ship found to have brought Asian immigrants to the state. Although the state Supreme Court invalidated the law, on the grounds that only the federal government had the power to legislate immigration, it foreshadowed national legislation to come.

Anti-Chinese sentiment also turned violent. From the 1850s through the end of the 19th century, Chinese Americans were systematically harassed, rounded up, and driven out of cities and towns across the West. During the winter of 1858–1859, a veritable race war began in the goldfields, as armed mobs forced Chinese out of various campsites and towns. In 1853, some 3,000 Chinese were in California’s Shasta County. At the end of the decade, only 160 remained.

By the 1870s, anti-Chinese vigilante violence was common throughout the West. On October 24, 1871, 17 Chinese were lynched in Los Angeles after a Chinese suspect shot a policeman. A mob of nearly 500 people, representing nearly a tenth of the city’s population at the time, dragged Chinese out of their homes while others hastily built gallows downtown to hang the victims. Police did little as a broad cross-section of Angelenos, including women and children, carried out what many historians have called the largest mass lynching in U.S. history.

The violence increased in the 1880s. In February 1885, the entire Chinese population of Eureka, California—300 people in total—was rounded up within 48 hours after a city coun-

cilman was killed in the crossfire between two Chinese rivals. On September 2, 1885, 28 Chinese miners were killed and another 15 were wounded in Rock Springs, Wyoming; then the rest of the town’s Chinese population, numbering in the hundreds, were driven out into the desert. On November 3, 1885, 500 armed men descended on the two Chinese neighborhoods in Tacoma, Washington, and forced all the residents—anywhere from 800 to 900 people—out of the city. Some were dragged from their homes and were forced to watch as their businesses were pillaged and belongings thrown into the street. Three days later, Seattle also demanded that all the Chinese leave town.

### ‘The Crooked Path’

Beginning in the 1860s, the U.S. government passed a series of laws restricting Chinese immigration. The 1862 Coolie Trade Act outlawed coolie labor and U.S. involvement in the coolie trade. The 1875 Page Act kept out not just Asian laborers brought to the United States involuntarily but any Asian women suspected of prostitution.

The Chinese who came to the United States in the late 19th century were only a small fraction of the country’s growing immigrant population. From 1870 to 1880, 138,941 Chinese immigrants entered the U.S., representing 4.3 percent of the total number of immigrants (3,199,394) who were admitted that decade.

When the Chinese Exclusion Act became law on May 6, 1882, it barred Chinese laborers for a period of 10 years and allowed entry only to certain exempt classes (students, teachers, travelers, merchants, and diplomats). It also prohibited all Chinese from obtaining naturalized citizenship. The message was clear: Chinese could come for business, travel, or education, but not to settle. In 1888 a second law, known as the Scott Act, imposed further restrictions. Laborers who had returned to China were forbidden to

The first ethnic group to be singled out for restriction, the Chinese, then spawned the first wave of “illegal immigrants.”

re-enter the United States unless they had wives, children, parents, or property or debts in excess of \$1,000 here. The act nullified 20,000 return certificates that had already been granted to Chinese laborers.

In 1892, the Geary Act extended the exclusion laws for another decade, requiring all Chinese in the United States to register with the federal government to obtain certificates of residence (precursors to today's Green Cards) proving their legal right to be in the country. The Chinese Exclusion Act was renewed again in 1902 and made permanent in 1904.

The Chinese still living in the United States referred to the exclusion regime as a “hundred kinds of oppressive laws” and began to protest. “Why do they not legislate against Swedes, Germans, Italians, Turks and others?” Yung Hen, a Chinese poultry dealer in San Francisco, asked in 1892. “There are no strings on those people....For some reason, you people persist in pestering the Chinamen.”

When the Supreme Court in 1884's *Chew Heong v. United States* upheld the constitutionality of Chinese exclusion, Chinese activists turned their attention to opening up additional immigration categories within the confines of the restrictions. They used the courts to affirm that merchant families, returning laborers, U.S. citizens of Chinese descent, and their families had the right to enter and re-enter the country.

From 1882 to 1943, some 300,000 Chinese were admitted into the United States as returning residents and citizens, exempt-class merchants, family members, and so on. Many hired immigration lawyers or brokers to assist with their cases and prepare paperwork. Others learned to evade or circumvent the exclusion laws. As immigrant Ted Chan explained in a 1977 interview, “We didn't want to come in illegally, but we were forced to because of the immigration laws. They particularly picked on the Chinese. If we told the truth, it didn't work. So we had to take the crooked path.”

The most common strategy was to falsely claim membership in one of the classes exempt from the exclusion laws, such as merchants or native-born citizens of the United States. A multinational business in false papers and relationships, or “paper sons,” aided their efforts and an estimated 90 to 95 percent of the Chinese immigrants entering the United States during this time used false papers. The first ethnic group to be singled out for restriction, the Chinese, then spawned the first wave of “illegal immigrants.”

## ‘A Bowlful of Tears’

Nearly 100,000 Chinese entered the United States through San Francisco from 1910 to 1940. About half were admitted directly from their ships, and another half were detained at the Angel Island Immigration Station. While popularly called the “Ellis Island of the West,” this station was very different from its counterpart in New York. Ellis Island enforced laws that restricted, but did not prohibit, European immigrants. Angel Island enforced policies that singled out Asians for exclusion.

Chinese were first subjected to a primary inspection on the steamship that had carried them. After receiving identification numbers, new arrivals were sent to the hospital for a medical examination. There the staff examined their bodies for physical defects and even measured their body parts to determine their ages. They looked for evidence of parasitic “Oriental diseases” such as uncinariasis (hookworm), filariasis (round worm), and clonorchiasis (liver fluke), which were all grounds for expulsion if untreated after arrival.

Chinese immigrants found these examinations extremely humiliating. They were unaccustomed to being naked in front of strangers, let alone forced to provide stool samples on demand so that the hospital staff could test for disease. “When the doctor came, I had to take off all my clothes. It was so embarrassing and shameful,” Lee Puey You recalled in 1939. She was held for 20 months and then sent back to China. She later told interviewers that she cried a “bowlful of tears” on Angel Island.

The arrivals then had to make their case to immigration officials. Merchants, for example, were required to provide detailed documentation of their business activities, the volume of their merchandise, and all their business partners. A returning merchant also had to have “two credible witnesses, other than Chinese” to testify on behalf of his status and state of business. Wives and children of merchants and citizens had to confirm that their husbands or fathers still qualified as exempt from the exclusion laws. They also had to prove that their relationship was genuine.

To combat the “paper son” system, Angel Island officials gave particularly strong scrutiny to cases involving families. As a routine part of the interrogations, prospective immigrants were questioned about a wealth of minute details concerning their family histories, relationships, and everyday life in the home villages—things immigration officials believed should be common knowledge to all parties. What are the marriage and birth dates of your family members? When did you last see your father? How many steps lead up to your house? How many windows are in your house? How many clocks are in your house? How many rows of houses in your village? Who lives in the third house, fourth row?

In some cases, applicants were required to draw extensive maps of their villages, complete with the locations of major buildings and all houses. Sometimes wives were required to recall minute facts about their husbands’ extended family and native village or to share intimate details about their marital relationship. If any major discrepancies were discovered in the testimonies, immigration inspectors concluded that the relationship did not exist and the entire case was discredited.

These interrogations were terrifying. They typically lasted two or three days, but could take much longer if witnesses had to travel to the island to testify or if applicants had to be recalled and interrogated again. Applicants were often asked as many as 200 questions; some were asked a thousand. Law Shee Low, who was detained on Angel Island in 1922, recalled the anxiety and despair in the women’s barracks

over the interrogation: “One woman was questioned all day and then deported. She told me they asked her about life in China: the chickens and the neighbors, and the direction the house faced. How would I know all that? I was scared.”

Because of these harsh interrogation methods, Chinese immigrants had one of the highest rejection rates at the Angel Island Immigration Station. Of the 95,687 Chinese who applied for admission there between 1910 and 1940, 9 percent were initially rejected. The vast majority appealed their decision through attorneys; in the end, 5 percent of Chinese applicants were ultimately returned to China.

Chinese also made up the overwhelming majority (70 percent) of the station’s detainee population. Anywhere from 200 to 300 men and 30 to 50 women were detained in the Angel Island barracks at any given time. Their average stay was for two weeks, the longest of all the immigrant groups. Kong Din Quong, who arrived in San Francisco in 1938, spent the longest recorded time in detention: 756 days. His grandfather was a native citizen of the United States. His father, though born in China, also held U.S. citizenship status, but Kong was born before his father resided in the country. His admission was denied on the grounds that a father cannot transfer citizenship rights to his children until he becomes a U.S. resident. Kong appealed his case, but he was eventually deported.

Chinese immigrants bitterly resented their long detentions. They watched people from Japan, Russia, and South Asia come and go while they remained imprisoned. The barracks were crowded and sparsely furnished. The prisoners were guarded at all times and were not allowed visitors. Some wallowed in feelings of helplessness and despair. Others petitioned the Chinese Six Companies benevolent association in San Francisco or the Chinese consul general for help. Chinese men formed a self-governing association to provide assistance to their fellow detainees.

In 1871, after a Chinese suspect shot a policeman in Los Angeles, a mob dragged 17 Chinese out of their homes and hastily built gallows downtown to hang them—the largest mass lynching in U.S. history.



Many expressed their frustration, anger, resentment, loneliness, and despair by writing poems on the walls. More than 200 poems from the Angel Island barracks have been recorded. Written anonymously, they are found in almost every corner of the men's detention barracks (now preserved as a National Historic Landmark) and serve as powerful reminders of the costs and hardships of immigration under such a discriminatory regime. One reads:

*There are tens of thousands of poems composed on  
these walls. They are all cries of complaint and sadness  
The day I am rid of this prison and attain success,  
I must remember that this chapter once existed.*

### 'Humiliation Day'

America's heated debate over Chinese immigration influenced other nations as well. In Canada, the Chinese were just a fraction of the more than 3.5 million immigrants who entered the country from 1885 to 1914. (In 1901, for example, there were only 17,312 Chinese there.) But as in the United States, they were greeted with an animosity disproportionate to their numbers.

Calls to keep British Columbia a "white man's province" and to rally around a "white Canada forever" fueled the movement to restrict immigration from China, Japan, and South Asia. Anti-Asian organizations, modeled after ones in the United States, adopted slogans like "The Chinese Must Go!"

Due to British relations with China, an all-out exclusion of Chinese immigrants was not feasible for Canada. Thus, instead of an explicit policy of exclusion, Canadian commissioners suggested a head-tax policy that would permit entry to every Chinese person, provided that he or she paid the landing fee. The federal government waited until a largely Chinese workforce had completed construction of the Canadian Pacific Railway, then imposed a \$50 head tax on Chinese laborers. In 1900, the tax was raised

to \$100. Three years later, it was raised again to \$500.

One unintended consequence of the head tax was to turn Chinese laborers into a scarcer and increasingly valuable commodity. Chinese immigrant wages doubled and, in some cases, tripled. By 1909, the tax was less a deterrent to Chinese immigration than a profitable source of state revenue. From 1885 to 1923, Chinese immigrants paid \$22.5 million to the Canadian government for the privilege of entering and leaving the country. No other group was required to pay these taxes.

In 1923, Canada transformed its regulation of Chinese immigration altogether. Closely modeled on U.S. exclusion laws, the 1923 Exclusion Act abolished the head tax system and instead prohibited all people of Chinese origin or descent from entering the country. Consular officials, children born in Canada, merchants, and students received the only exemptions. The act also required every person of Chinese origin in Canada, regardless of citizenship, to register with the government and obtain a certification of registration, as in the United States. For Chinese Canadians, July 1, 1923—the day the law was passed—came to be known as "Humiliation Day."

### 'Impossible to Compete With'

By 1910, Chinese lived and worked in almost every state and territory in Mexico. By 1926, they were the country's second-largest group of foreigners—around 24,000 total. The rise of the anti-Chinese activists, or *antichinistas*, soon followed.

Wives were required to recall minute facts about their husbands' extended families or to share intimate details about their marital relationships. If discrepancies were discovered, inspectors concluded the relationship was fake.

Mexican newspapers called the Chinese “savages,” “uncivilized,” and “lazy.” Chinese immigration itself was characterized in catastrophic terms: the “yellow wave,” the “yellow plague,” the “Mongol invasion.” In the northern state of Sonora, antichinistas focused on the unfair economic competition that the Chinese allegedly posed to Mexicans. Although the Chinese population was never large, they dominated local commerce in groceries, dry goods, and general merchandise in border towns such as Nogales and Agua Prieta, where American companies were busy digging mines and building railroads. Sonorans, who already felt disadvantaged by the large presence of U.S. capital in the region, greatly resented the Chinese-owned businesses. The *chino* was “impossible to compete with,” charged the anti-Chinese leader José Angel Espinoza.

Antichinista attacks on interracial marriages between Chinese men and Mexican women added another layer to the rhetoric. Chinese men were called lecherous, Mexican women who married Chinese men were demonized as traitors to their race, and Chinese-Mexican children were denigrated as “freaks of nature.” Race, economics, masculinity, and sexual power were all bound together.

Anti-Chinese sentiment especially flourished after the Mexican Revolution of 1911, which tried to destroy all aspects of President Porfirio Díaz’s reign—including his support of U.S. trade and policies encouraging Chinese immigration. The revolutionary *indigenista* nationalism included an intense xenophobia.

Anti-Chinese leader José María Arana, for example, pitted the “evils and vices of the Chinese” against the progress and national regeneration of the Mexican nation. José Angel Espinoza similarly identified the campaign against the Chinese as a movement “for the fatherland and for the race.” Driving the Chinese out of Mexico was “the moral duty of all true Mexican nationalists,” he proclaimed. The cover of his 1932 book *El Ejemplo de Sonora* (*The Example of Sonora*) boldly illustrated this message: A Mexican politician kicks a Chinese immigrant—greedily holding onto a bag of gold and a brick

of opium—out of Sonora while holding a newly passed anti-Chinese law in his hand. A worker stands behind him to make sure that the will of the people is carried out while the sun looks on approvingly and heralds the victory.

An anti-Chinese riot broke out in Mazatlán in 1886, and several unprovoked attacks on Chinese occurred in Mexico City that same year. Then came the massacre in Torreón on May 5, 1911. This “two-day orgy of unbelievable brutality” resulted in the deaths of 303 Chinese (out of an estimated 600–700 in the city) and \$850,000 worth of damage to Chinese businesses and homes.

In 1908, Mexico passed a new law, inspired by U.S. policies, to regulate immigration and create the Mexican Immigration Service. In 1927, the treaty between Mexico and China was canceled, and in July of that year, another race-based immigration law was passed, restricting the immigration of blacks, British Indians, Syrians, Lebanese, Armenians, Palestinians, Arabs, Turks, and Chinese.

### ‘The Dumping Ground for the Rest of the World’

By the 1930s, in addition to the controls put in place in the United States, Canada, and Mexico, most countries in Latin America had restricted Chinese entry in one way or another, varying from total exclusion to regulations that limited the number of immigrants allowed in each year. The anti-Chinese campaign that began in the United States ended up having far-reaching consequences for the regulation of immigration around the world.

It wasn’t until the 1965 Immigration and Nationality Act that a Congress embarrassed by America’s race-based immigration system finally undid the Chinese Exclusion Act. Today, that 1965 law has come under increasing attack from the supporters of a presidential frontrunner who wants to deport millions of people and to ban a vast category of immigrants based on their religion. America, Donald Trump warns, has become “the dumping ground for the rest of the world.” 2015 isn’t really that far from 1882. ■

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## What You Think You Know Is Wrong

Adam Conover of *Adam Ruins Everything* on engagement rings, the TSA, and bathing every day

*Interview by Zach Weissmueller*

“I WANT TO DO stories that are about the bits of cultural furniture that are sitting there that we’re like, ‘Oh, yeah, that’s been there for years! What could possibly be weird about it?’” says Adam Conover, host of *Adam Ruins Everything*. “And then we’re going to lift that piece of furniture and look at all the bugs scurry away.”

Adam Conover (Matthias Clamer)

*Adam Ruins Everything* started as a Web series for the video site College Humor. As the eponymous host of the show, Conover “ruins” widely held beliefs that just so happen to be wrong. His targets have ranged from the Transportation Security Administration (TSA) to forensic science to car dealerships. One typical episode tackled the topic of engagement rings, arguing that the supposed cultural tradition of spending two months’ salary on a diamond was actually a marketing ploy started by the DeBeers corporation during the Great Depression. The cable network TruTV picked up the series in September 2015.

In December, Reason TV’s Zach Weissmueller sat down with Conover to discuss his approach to debunking and why false cultural beliefs persist in the age of nearly unlimited access to information. For video of the interview, go to [reason.com](http://reason.com).

**reason:** One of the early episodes of *Adam Ruins Everything* looks at the TSA. Could you ruin the TSA a little bit for us right now?

**Adam Conover:** A lot of people already suspect this, but the TSA has never stopped a terrorist attack—or at least we don’t know that they’ve ever stopped a terrorist attack, because they’ve never claimed to have stopped a terrorist attack. When the FBI or the CIA stop one, they hold a big press conference. But the only instances we know of are where the TSA let someone through. The shoe bomber, the underwear bomber—those guys got through security.

The reason for that is that the TSA’s security is totally static. All they do is screen items for discrete things and then scan your body in this specific way. It’s very easy for terrorists to figure, “All right, what aren’t they scanning for right now?” and go around it.

On top of which, if a terrorist really wanted to hurt people—to kill people and scare everybody—he’s just going to go where the least security is. There’s a lot of security at airports. There’s not a ton of security on trains, on subways, on buses, on the highway system, in tunnels, etc. Creating a blockade in this one specific spot doesn’t really do much to keep us safer.

What the TSA actually does is security theater, a concept we learned about from the writer Bruce Schneier. Security theater is the idea of putting on a big show of security in order to make people feel safe. That’s why the TSA screens everything and takes your stuff away. The TSA has these items that are not actually dangerous but you’ll be stopped if you take them

through—stuff that is not a weapon but kind of looks like a weapon. They post on their Instagram feed the stuff they confiscate. They posted a plaque with a fake grenade on it that said, “In case of complaint, pull pin.” It’s a novelty thing! It’s made of wood! No one could ever mistake it for a grenade, but the TSA says novelty grenades are not permitted. By taking things away they give the impression of doing something, but they don’t actually do anything.

**reason:** The TSA is something that everyone kind of feels discomfort with. But you also take on cherished beliefs. Have you ever taken on a topic that you ruined for yourself, something that you thought, “I really wish this were true”?

**Conover:** For the most part, the show is stuff that I think already. But there’s a few topics in our sex episode that I genuinely didn’t know at all that the writers brought to me. I won’t spoil what they are, but there’re two very commonly held beliefs about the human body that I wasn’t aware that I was wrong about. It was a very wonderful sensation to feel that “holy crap” myself, this feeling we’re trying to give the audience.

Beyond that, a lot of the topics on the show are things that we feel a cultural need to do even though they’re pointless. And even after you learn the truth about them, it’s very difficult to stop doing them. In our hygiene episode, we talk about why you don’t really need to shower every day. There’s no medical reason. A dermatologist will say if you shower every day you can over-dry your skin. Really, you just need to wash your armpits and crotch, and doing it a couple of days a week is fine. But soap companies advertised and sort of instilled this cultural habit of “you must shower every day and if you don’t, you’re gross.” I *still* shower every day, despite knowing that, because I feel disgusting if I don’t.

Part of the thesis of the show is that you can’t escape culture. You can learn about it. You can criticize it. You can try to move it slowly. But at the end of the day, you can’t opt out of the culture that you’re in.

**reason:** We’re in an age where everything is a Google search away. All the information is out there, yet these misconceptions that you’re taking down persist. Why is that?

**Conover:** Information’s right at our fingertips, but so is what you want to believe. It’s the classic thing of someone Googling “autism vaccines”—they’ll find what they’re looking for, depending on what they think.

You'll find lots of people who are just bolstering what they already think, bolstering their cultural attitude.

People will watch our show and go Google "first engagement ring," and they'll say, "Wait a second, the first engagement ring was given by a Bavarian prince in 1524." Now, that little bit of story is part of the DeBeers advertising campaign. That was a thing that they put in newspapers and magazines and stuff to make it seem like an older tradition. It's not false that that happened, but that was just one example of a guy who gave a ring one time. DeBeers says that was the beginning of the trend. It wasn't.

So people will send that to me and be like, "See, look, it *is* an older tradition." Unless you have a habit of undermining your own beliefs and of being curious about these things—which is a habit that I feel thankful my education and my upbringing instilled in me—you won't look into those things more deeply. Part of the mission of the show is to help instill that habit in people.

**reason:** Your background gave you a skeptical mind-set?

**Conover:** I was brought up in an academic family. I'm the only member of the family without a Ph.D. My dad's a marine biologist, my mom's a botanist, my sister's a nuclear physicist, and I'm here doing this. As far as they're concerned, when I got a bachelor's degree, I dropped out.

I went to Bard College, which was a really interesting synthesis of a hippie school and a serious academic institution. It was really the perfect spot for me. I studied philosophy there, and the project of philosophy is, at root, this constant undermining of what you think you know. Philosophy is always asking, "How do I know this?" I think every person who does it reaches what they believe to be the bedrock roots, but they still have that question of, "Can I keep undermining it?"

I wanted to go to grad school, and no one was like, "You should." [laughs] They were like, "Yeahhhh, maybe." So I got the hint. I started doing comedy instead.

Comedy has a very similar project of questioning and doing. Both deal with taking ideas and pulling them apart and holding them up and looking at them, just in different ways. Comedy is the art-form version of that. So that's what I did for about 10 years, and then I finally sort of figured out how to synthesize the two.

**reason:** How did you synthesize them?

**Conover:** I'd been reading about topics like the ones we talk about on the show, just in my spare time. The engagement rings topic was just one that I'd read in a magazine. I think there was a *Slate* article, and it all goes back to this famous article written in *The Atlantic* by Edward James Epstein in the '80s. Ever since, different writers will exhume it and go, "Did you know this?" It just stuck with me. It's like if you found out that the Fourth of July was invented by Macy's. You'd be like, "What? This is a bedrock cultural American tradition."

So I just started doing it at stand-up shows, telling that story about DeBeers, and it would get a laugh. It sort of became the centerpiece of my act. But I noticed that on top of people laughing, the audience would kind of like lean forward a little bit. They'd be like, "Wait, wait, really?" And then they'd come to my next show and go, "Oh, I looked, that's true. That's crazy." They would have a reaction that was more than just a laugh.

I was also doing sketch comedy. I was in a sketch group called Old English. So I was like, "All right, that's one of my best bits. Let me write that as a video." And then we were off to the races.

**reason:** When you watch the show, you see these little citations pop up for every fact that you're putting there.

**Conover:** If you watch John Oliver's show, they use the

“Security theater is the idea of putting on a big show of security in order to make people feel safe. That’s why the TSA screens everything and takes your stuff away.”



techniques of journalism. When they're showing that something happened, they'll take a piece of the *New York Times* article and then they'll do a rise pull of the text with the date on the bottom, and that's how you know that this is being pulled from the real world.

Now, we're kind of doing the same thing, but on our show, we could be wrong about these things. We don't have a huge research staff. We do have one, but they're not enormous. We're a bunch of comedy writers and journalists putting together what the truth is to the best of our knowledge. Us showing our sources is saying: Here's the work that we did. If you have better work, please show it to us. If one of our sources is bad, here's how you know. Here is the material you can use yourself to question our show, because this is the work that we did. If we quote from this World Health Organization study, you can say, "Hey, actually this study had a bad sample size." I hope that people do that. If we get any that are credible, I would like to do a corrections episode.

**reason:** Adam ruins *Adam Ruins Everything*.

**Conover:** Exactly.

**reason:** The underlying mission of the show is to promote skepticism, free inquiry, and questioning your own beliefs. Do you feel you're accomplishing that? Which direction do you think the culture is heading?

**Conover:** To me, it's not so much the culture changing. It's that people always wanted this stuff. So much of the media is a little patronizing to people and assumes that they're not curious.

The premise of the show is that people are interested in these topics and that—it's dumb, but it's that learning is fun. The reason our original videos did well on the Web is because people like to learn a fact and then they wanted to share it with other people. I think the media is slowly starting to figure out that that's what people want.

The other cultural change is that comedy has been starting to be taken much more seriously in recent years. *The Daily Show* was really a turning point, where people started to realize that comedy can have a true cultural impact and can have something to say that is serious.

John Oliver's show came out as we were in production on this show. And I love that show so much. It really showed that there is an audience for what we were about to do.

**reason:** I also see a comparison to shows like Penn & Teller's *Bullshit!* or *MythBusters*. Are there any other shows besides John Oliver that had an influence on how you're approaching this and bringing it to television?

**Conover:** It was pointed out to me recently that there was a golden age of children's programming in the early '90s because the government said that television stations had to have a certain amount of educational content. I can't remember where I read this, but it was really fascinating. Because of that, the stations were incentivized to create all-science commercial half-hour shows. *Bill Nye, the Science Guy* and *Beakman's World* were two big ones, and there were a couple of others, that were straight-up science educational shows on Saturday morning with commercials running, which when you think about it is very rare.

Our show is *Beakman's World* or *Bill Nye, the Science Guy* for adults, in a way. It's very visual, and we have these comedy characters slide in and do their demo of whatever the topic is.

I think *MythBusters* is very cool, but it's a totally different angle. We don't do demos. We do one thing in the hygiene episode where we show that flushable wipes don't break down in a stand mixer. That's about it. And our topic is totally different.

And I loved Penn & Teller's *Bullshit!* when I was in college. I did have an experience, though, with it,

“Here’s the work that we did. If you have better work, please show it to us. I hope that people do that. If we get any that are credible, I would like to do a corrections episode.”

where they did an episode on secondhand smoke in their first season. I was a smoker at the time, and Michael Bloomberg's smoking ban was going on in New York. I watched that episode, and I told my friends, "Yeah, look, second-hand smoke doesn't cause cancer. Smoking does, second-hand smoke doesn't. It's all a phantasm."

I felt very betrayed by the show in a real way, because I had this show's back and I went and told people that this was true, and it wasn't. I don't know if it was they didn't do their homework or what. I wouldn't even mention it if they hadn't themselves retracted it, but when we did this show, I was like, I don't want to give anybody that feeling. I want to make sure that we don't fall into that pitfall, which is very, very easy to do.

It's very easy to make the facts of the show fit the narrative that you have in your head. We've had a couple of topics where we were like, "OK, there was this cultural thing and then probably some corporation had a big advertising campaign and that's why we all do it today, right?" And there were a couple of times where it even looked like we were going to find that, like someone somewhere was pushing that narrative, and then we looked into it and it wasn't true.

If we do the show for 10 seasons, we will get one thing wrong, just by the probability of numbers. That's why we try to have an open system where you can question the show and look at the citations so that we can get out in front of that and take responsibility for it.

It's like the project of science in general. People who are anti-science will go, "Ah, you were wrong about that. See, science is wrong." And then science should come back and say, "The fact that we get things wrong and that we find out that we were wrong, that's part of the scientific project. That's how science makes progress. That's part of the system. The bug is a feature." I'm hopeful that our show will work the same way.

**reason:** In the engagement ring episode, you make the case that this whole phenomenon of spending two months' salary on an engagement ring was started by the DeBeers Corporation. It was a marketing campaign, and now we take it as this cultural given.

But is that a problem? Culture ultimately always starts with something. If it starts with a corporation, is that a bad thing?

**Conover:** I don't necessarily pass moral judgment. I think it's a little bit deceptive, and I think you're justified in saying, "Hey guys, that's a bit of a dick move."

That's a little bit of the angle of the show. In our hygiene episode, we talk about Listerine and the history of hygiene companies exploiting people's fears and insecurities and making them feel bad about themselves through advertising. Or how "flushable wipes" are not flushable. They're damaging our sewers. They're sold under the false pretenses that they are flushable, and the company's advertising campaign is all based on, "Hey, you're not really clean unless you use those. You're a dirty person and unless you use our product, you have a dirty butt." People have a deep-rooted fear of their butt being dirty. People have real issues with poop.

That's straight-up nefarious, in my opinion. I think that's mean to people to do that to them. I think that's bad marketing and I don't approve of it, and I feel on pretty firm ground saying that.

With DeBeers, you could make the argument that it's a large portion of people's salaries. Two months' salary. They were doing this during the Depression, so that's a lot to ask of people. That is DeBeers capturing a large portion of people's incomes and putting it in their coffers for a product that doesn't frankly provide much value.

Diamonds have a huge mark-up. They don't have a resale value because there is no secondary market for diamonds, because DeBeers controls the market. They lose something like 70 percent of their value as soon as you buy them new. There's no resale market. No one's going to buy your used diamond. I think you can make the argument that that's a little bit nefarious as well.

**reason:** That example caught on and spread so quickly and so easily that it almost seems as if the culture was hungry for this symbolic sacrifice that people could make. Is that possible?

**Conover:** That's definitely possible. I think, though, that a corporation—a company like DeBeers—is a social entity that exists to get money for itself. That's the purpose of it. That's what it'll do. It is going to try to influence people whatever way they can. I think that what we need more of in society is corrective institutions that try to influence people in the opposite direction. I hope that's what the show is. ■

# How Commerce, Not the Feds, Saved the Alligator

Hunting can do more good than the Endangered Species Act.

*Zach Weissmueller*

IN JULY 2015, the Internet went on an outrage bender after a well-to-do American dentist killed a beloved Zimbabwean lion known as Cecil. The backlash was so strong that the offending dentist briefly went into hiding; when he returned to work months later, a troop of angry protesters camped outside his office, awaiting the opportunity to call him a cold-blooded killer to his face.

In the United States, hunting big beautiful animals is a cultural taboo. But does that prohibition do more harm than good? When governments legalize the trade of valuable animals, moving the practice out of the black

market, it actually helps sustain their populations.

That's exactly what happened with one iconic North American predator: the American alligator. At one time, there was doubt about whether the species would survive. Today, gators in the Gulf Coast states number in the millions. While federal agencies and some conservation groups like to credit the 1973 Endangered Species Act for the animal's recovery from near-extinction, the state-level regulators who actually oversaw its comeback have a different explanation. Theirs is a story of hunting, harvesting, commerce, and

conservation working together for the greater good.

**One person who had a swamp-level** view is Tommy Hines, who ran Florida's alligator management program in the 1960s and '70s. A key element of Hines' strategy was a willingness to work with hunters and traders.

"The idea that the Endangered Species Act was responsible for the alligator's recovery is a myth," he says. "Those people who are most interested in the conservation of alligators in many cases are those who depend upon them for their livelihood."



Paynes Prairie Preserve State Park in Gainesville, Florida (Zach Weissmueller)





Hines gives more credit to a 1969 amendment to the Lacey Act that required states to tag and track alligator hides. This opened up the alligator harvesting industry and created a strong incentive to ensure there would be a thriving population of the animals for years to come.

When the government focused its efforts on enabling a legitimate, flexible market, the results were stunning. Land owners suddenly had a strong motive to maintain alligator habitats. The creature's population stabilized and began to grow. A 1984 report from Louisiana's management program found that the number of alligator nests started to spike *before* the feds classified the species as endangered.

In fact, that step might have made the problem worse. By prohibiting states from setting reasonable hunting quotas, the law hampered the development of a well-regulated market for gator hides. Wildlife managers then had to battle to get the animal taken off the endangered list, which



they did in 1977. “By that time,” says Allan Woodward, another former head of the Florida Fish and Wildlife Conservation Commission, “we were having major problems with nuisance alligators.”

**Today alligator hunting is widely** practiced and has even been the subject of reality TV shows, such as the History channel's *Swamp People*. And most of that harvesting activity—40 percent in Florida and close to 90 percent in Louisiana—happens on private land.

“The whole North American model of wildlife management is based on the idea that sustained harvest is not only possible, it's a positive,” says Hines, “because it's generated a tremendous amount of funds to go back into conservation, to go back into wildlife research.”

Sometimes you have to hunt an animal to save it. ■

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## Regulatory Science Fiction

The stories of yesterday provide hints for the lawmakers of tomorrow.

*Matthew Feeney*

AS GANGSTER Griff Tannen emerges from the Hill Valley courthouse after a disastrous hoverboard chase, a *USA Today* media drone floats nearby, furiously snapping photos. The date, according to a nearby edition of the newspaper, is October 21, 2015.

This pivotal scene in 1989's *Back to the Future Part II* wasn't far off when it came to anticipating drone and camera technology. If anything, the movie's prop designers seem to have slightly underestimated the speed of technological progress. The drone is large and cumbersome, struggling to stay aloft under the weight of numerous camera lenses and incandescent light bulbs.

When 2015 actually did roll around, comparatively lightweight drones capable of carrying a single 360-degree camera were already ubiquitous, and the press was moving in to take advantage of the new technology. Last year 16 media organizations, including *The New York Times*, NBCUniversal, Getty Images, the Associated Press, and *USA Today*'s parent company Gannett, partnered with Virginia Tech to test drones and train journalists in their use.

In December, the Federal Avia-



tion Administration announced that every drone more than half a pound and less than 55 pounds must be formally registered with the federal government, including drones purchased before the new rules were enacted. Pilots who fail to register could face civil fines of up to \$27,500 and criminal penalties of up to \$250,000 and imprisonment for up to three years, according to the

government's FAQ page. These are the first universal drone ownership and use rules, and they pull drones out of a legal limbo in which they have long hovered.

Whether set in the future, the present, or a long time ago in a galaxy far, far away, works of science fiction offer examples of technology that may be with us sooner than we think. Such innovations are exciting, but





they also pose challenges. Lawmakers should be ready for a time when facial recognition tech is more widespread and accurate, drones can be equipped with high-functioning A.I., and killer robots can fight our wars. Reading and watching more science fiction is a great way for judges and politicians to get prepared and immerse themselves in a few cautionary tales.

**Star Wars Episode I: The Phantom Menace**, perhaps the most lambasted movie of the Star Wars franchise, also has some pretty solid tech. The film includes a scene in which Sith apprentice Darth Maul travels to the desert planet Tatooine in order to find Queen Amidala of Naboo. When he arrives, Maul deploys three DRK-1 probe droids to aid his search.

The probe droids are unmanned

aerial vehicles, a.k.a. drones. According to Wookieepedia, the all-*Star Wars* incarnation of Wikipedia, “the DRK-1 probe droid was a small, spherical automaton equipped with sophisticated sensor and communications packages....The DRK-1 version featured a trio of imaging sensors: a central photoreceptor, a magnetic imaging device, and a thermal imager. An antenna atop the DRK-1’s





### Hunger for Power

The *Hunger Games* novels were always a tale of governmental authority gone evil. The fourth film to be based on the series, *Mockingjay—Part 2*, takes that theme to another level.

The villain of the first three movies is Panem's despotic ruler, Coriolanus Snow, who terrifies citizens into obedience by conscripting 24 children per year into a televised battle to the death. In this final installment, shadow president Alma Coin has rallied the population to throw off that tyrannical reign. As her rebel army storms the Capitol, a two-time Hunger Games survivor sets out to assassinate Snow.

The story builds to the discomfiting realization that Coin is willing to take unthinkable steps to seize control of the country. By the time she declares herself interim leader, insisting the people are clearly too traumatized right now to vote on the decision, the audience has learned the lesson well: Those who seek power for themselves may claim to be benevolent servants, but that's usually not true.

—Stephanie Slade

dome allowed its master to relay commands to the probot, programming it to seek out individuals or information. Data was then sent back to headquarters via the transmission antennae." A little more sophisticated than what we have today, to be sure, but not altogether implausible as near-future technology, given the work already being done by researchers and military actors related to artificial intelligence, facial recognition, and drones. It will probably not be long before drones that can fly themselves and analyze audio/visual data will be available.

In *Phantom Menace*, one of the drones is destroyed by the Jedi Qui-Gon Jinn, who declares it "very unusual...not like anything I have seen before." So far most defenses against unwanted spying have a DIY flavor in the real world as well. In October, a Kentucky judge dismissed a case concerning a man who shot down a drone launched by his neighbor. Bullitt County Judge Rebecca Ward told the courtroom that the drone flown over his family's property "was an invasion of their privacy and that they had the right to shoot this drone." In this, Ward seemed to be in agreement with Kanye West. According to *TMZ*, the rapper once asked, "Wouldn't you like to just teach your daughter how to swim without a drone flying?"

**I**t remains to be seen how state and federal law enforcement agencies intend to track down every 12-year-old who got a drone for Christmas, immediately crashed it into a tree, and then hid the wrecked carcass in his basement.

But state and local legal restrictions are being considered for drone use, in addition to the federal registry. In some states, lawmakers have pre-empted some of the concerns posed by these emerging and improving technologies. For instance, legislation in California, undoubtedly welcomed in the West household, prohibits using a drone to take photos or video of someone "engaging in a private, personal, or familial activity." In Mississippi, lawmakers have moved to ban those of a voyeuristic persuasion from taking advantage of drone technology, explicitly banning "peeping Toms" from using

drones in spas, tanning booths, massage rooms, fitting rooms, and "any other area in which the occupant has a reasonable expectation of privacy." Dozens of states have passed legislation addressing not only drones and privacy but also the use of drones as weapons.

**What happens when we put drones in the hands of the people who make the rules in the first place?** There's not much appetite for restraint at the higher levels of government, that's for sure. In the wake of attacks in San Bernardino and Paris, Republican candidates Jeb Bush and Chris

**The U.S. military has developed technologies like ARGUS-IS, which allows for the persistent surveillance of up to 15 square miles by using a 1.8-gigapixel-resolution camera unit.**

Christie made sure to mention that the law enforcement and intelligence communities should be fully outfitted. During the fifth Republican presidential nomination debate Bush said "we should make sure that we give the FBI, the NSA, our intelligence communities, all the resources they need to keep us safe," and Christie argued that the government should restore "tools to the NSA and to our entire surveillance and law enforcement community."

When it comes to cautionary tales about surveillance, lawmakers need look no further than George Orwell's classic *1984*. The police-piloted helicopters of Oceania "skimmed down between the roofs, hovered for an instant like a blue-

bottle” while “snooping into people’s windows.”

Even with current tech, footage captured by law enforcement drones similar to those bluebottles could be extensive. The U.S. military has developed technologies like ARGUS-IS, which allows for the persistent surveillance of up to 15 square miles by using what amounts to a 1.8-gigapixel-resolution camera unit, which automatically tracks moving objects. This is, as the PBS series *NOVA* explained in 2013, the “equivalent of having up to a hundred Predators look at an area the size of a medium-sized city at once.”

The New York Police Department (NYPD) has been using military-grade X-ray vans, which can see through walls. Perhaps unsurprisingly, the NYPD has proven reluctant to release information about their use of a technology that not long ago would have belonged in the panels of a Superman comic rather than the news pages. The implications for civil liberties are obvious.

Those hovering police patrols are quickly dismissed by the narrator in *1984*, who notes lightly that “the patrols did not matter....Only the Thought Police mattered”—snoops gazing out from ubiquitous screens in homes and workplaces.

**B**ack in the real world there is an ongoing debate about government screen-snooping, with some law enforcement officials demanding “back door” access to encrypted communications and civil libertarians warning of such an approach’s worrying privacy ramifications. The chairman of the House Homeland Security Committee, Rep. Mike McCaul (R-Texas), who clearly hasn’t revisited Orwell since high school,

declared on *Face the Nation* in November that “the biggest threat today is the idea that terrorists can communicate in dark space, dark platforms, and we can’t see what they’re saying.” Sen. Dianne Feinstein (Calif.), the top Democrat on the Senate Intelligence Committee, chimed in to agree, calling encryption the “Achilles heel” of the Internet.

Apple’s Tim Cook pushed back on *60 Minutes* that same month, explaining the importance of data security. “Here’s what the situation is on your smartphone today, on your iPhone, there’s likely health information, there’s financial information. There are intimate conversations with your family, or your co-workers. There’s probably business secrets and you should have the ability to protect it. And the only way we know how to do that, is to encrypt it. Why is that? It’s because if there’s a way to get in,

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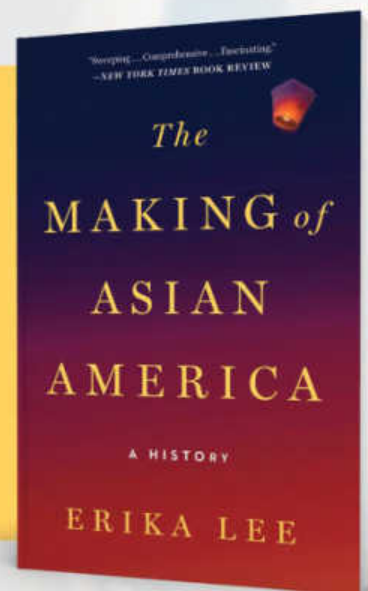
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## Unintended Consequences

The Adult Swim animated series *Rick & Morty* follows mad scientist Rick Sanchez and his grandson Morty as they travel through the multiverse to smuggle precious seeds, create love potions, sell weapons, and go to the arcade. The show's comedic high points come when Rick deals with the unintended consequences of Morty's, and the rest of his family's, actions.

The alcoholic, antisocial Rick offers lessons not just on stubborn individualism and the problems that arise from underestimating complexity, but on family and friends as a steering force in life. The *Back to the Future* knockoff, originally titled "Doc and Marty," takes on some of the oldest, truest, and, yes, most tired sci-fi clichés in refreshingly new and funny ways, with stories that reveal a lot about human nature and the world around us despite their outlandish premises—a hallmark of good science-fiction storytelling. —Ed Krayewski

then somebody will find the way in. There have been people that suggest that we should have a back door. But the reality is if you put a back door in, that back door's for everybody, for good guys and bad guys."

Presidential candidates have weighed in on the issue: GOP presidential wannabe Carly Fiorina took the softest stance (and perhaps also the most Orwellian) during that surveillance debate, arguing that when it comes to cooperation between tech companies and the FBI, "They do not need to be forced. They need to be asked."

**Then there's artificial intelligence.** Long familiar to science fiction fans, thanks to creations from William Gibson's citizen-A.I.s in *Neuromancer* to the out-of-control ship computer in Arthur C. Clarke's 2001: *A Space Odyssey*, weaponized A.I. is already a reality, whether it's the X-47B, an unmanned fighter jet that is capable of autonomous inflight refueling, or the SGR-AI, a South Korean sentry robot that can spot intruders autonomously.

Some activists have already taken steps to prevent or limit the use of weaponized A.I., arguing that we should stop intelligent machines being used in combat. For instance, Human Rights Watch is a founding member of the unambiguously titled Stop Killer Robots campaign. Concerns about the rise of A.I. have brought together a range of academics, business leaders, and researchers, including inventor Elon Musk, Apple co-founder Steve Wozniak, and physicist Steven Hawking, who all signed a letter last year urging a ban on autonomous weapons.

The A.I. nightmare scenario resembles the almost century-long Butlerian Jihad of the *Dune* novels, in which humans battled "thinking machines," resulting in widespread devastation. According to the semi-canonical *Dune Encyclopedia*, "the Jihad, smashing first interstellar communications, razed large and small governments planet by planet, leaving only rubble, ready for reassembly by the nimblest barbarian." The devastation of the Butlerian Jihad prompted the commandment "Thou shalt

not make a machine in the likeness of a human mind" to be added to the Orange Catholic Bible, a fusion of ancient scriptures created after the conflict.

It would be a mistake for politicians to take as drastic a step as completely banning artificial intelligence, but the Butlerian Jihad and other events from science fiction provide us with cautionary—if not fantastical—tales about the future.

Urging lawmakers to take science fiction technology more seriously could have drawbacks. (Just think of the bizarre legislation we might get.) And science fiction doesn't always correctly anticipate tomorrow's tech. At the end of the year, hoverboards were shaping up to be one of 2015's most popular Christmas gifts, though these two-wheeled contraptions are somewhat misnamed, since—unlike *Back to the Future Part II*'s famous floating skateboard—they remain firmly earthbound. And then Amazon had to recall a bunch of them because they kept catching on fire.

But lawmakers should prioritize their Netflix queues and rulemaking. Facial recognition software and drones already exist, and research on A.I., biometric readings, robotics, and weapons is not going to slow down any time soon. Debates on A.I. citizenship and homesteading on Saturn's moons can wait. Debates on surveillance and drones cannot. ■

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## When Safety Measures Make Us Unsafe

How everything from seatbelts to bank deposit insurance can backfire

Harvey Molotch

*Foolproof: Why Safety Can Be Dangerous and How Danger Makes Us Safe, by Greg Ip, Little, Brown, 326 pages, \$28*

SOMETIMES OUR efforts to be safe have the opposite effect. Bike helmets may seduce riders into taking chances they otherwise would not. So they die. Better to think riding a bike is really dangerous: That leads to more caution, and more lives saved. Same with snow tires—having them lessens anxiety, and presto, careless maneuvers are more likely.

In *Foolproof*, reporter Greg Ip of *The Wall Street Journal* takes up many examples of unintended effects. Seat belts, antibiotics, river dams, anti-lock car brakes, fire prevention, saving for a rainy day—all good things that, I fear to say, have at least the prospect of built-in danger.

But some safety measures do work, a lot of times dramatically or at least pretty well. The book's subtitle tells us that safety "can be" dangerous, not that it *will be* dangerous. This leads to the inconvenient necessity of rational discrimination on a case-by-case basis. Kids driving without seat belts on a Saturday night are a self-destroying menace in a way middle-age women on a Tuesday morning are not. We need, as Ip declares (and delivers), to examine the relevant "history and evidence with an open mind." Even when much of the story is well-known, *Foolproof* gives us further details that clear up old questions—and sometimes, alas, raise new ones.

Fire prevention is a good place to start. Smokey the Bear had a myopic view of the health of forests—no fires, no way, no day. Some plant species, however, need fire to reproduce; it's part of their nature. Mature trees, Ip explains, survive forest fires because their crowns are above the intense heat churned up below. What does them in are stands of adjacent young trees that provide a ladder for flames to climb to their crowns. Regularly occurring, and thus smaller-scale, fires would have destroyed those young trees. Such fires would also have taken away the heavy kindling that otherwise accumulates on the forest floor. In the longer term, and contrary to Smokey, *nobody* can prevent forest fires. It is often good to let nature run its course.

Another charge against Smokey: "His campaigns against fires lull people into building houses where they should not go, as do all the paraphernalia on standby to stamp them out. Among other troubles, this shifts costs to insurance companies (who are slow to get the message and raise premiums), to public agencies that deploy personnel and equipment, and to outfits like the Federal Emergency Management Agency that are supposed to follow up with shelter. Ever balanced, Ip agrees that we need to fight fires when there is a direct threat to homes, businesses, or lives. But Smokey needs some culling.

Ip also takes on football helmets. They were an obvious fix for head injuries on the field, long suffered not just by professional athletes but by athletic schoolboys. The problem: Players adjusted to the apparent safety by using their heads as battering rams against opposing players. Head injuries went down, a near-

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## Post-Apocalyptic Politics

*The 100* is not sophisticated television. A post-apocalyptic sci-fi series in its third season on The CW, it rarely misses a chance to make a mountain out of minor plot twists. But it's a lot of fun, especially for fans of dystopian futures.

Humanity's "last" post-nuclear-war outpost has returned from space to discover Earth not only habitable but inhabited, by a motley crew of warriorlike Grounders, cannibalistic Reapers, and mysterious Mountain Men. With a group of young petty criminals sent to revisit the planet, season one has a *Lord of the Flies* feel, with interesting forays into how self-governing structures emerge. Season two culminates with a young leader causing the painful death of hundreds to save a few dozen of her people.

The series is at its best when forcing its characters into such ethical gray spots, showing leaders in positions of moral compromise while still managing to be a binge-watchable guilty pleasure.

—Elizabeth Nolan Brown

term gain, but injuries were deflected to other body parts. The U.S. saw a threefold rise in permanent quadriplegics and a fourfold increase in broken necks.

But learning does happen. The National Collegiate Athletic Association came up with a ban on "spearing," essentially the practice of using the head to deliberately punish the opponent. As a result, Ip reports, "spinal injuries fell dramatically," so a lot of the safety benefit did survive.

Ip thus refuses to embrace what has been called the "Jevons paradox," named for the English scientist—William Jevons—who advanced the overall concept around 1865. The Jevons paradox asserts, as an almost Newtonian law, that any gain in the security direction will be offset by a loss in the opposite direction. Critics often use it to argue against all kinds of do-good interventions. Ip takes the charges seriously, but his open mind leads him to doubt, for precise reasons he cites, that they provide an accurate picture overall. There may be a *tendency* for safety to be self-defeating, but it is not a rule, not even a rule of thumb.

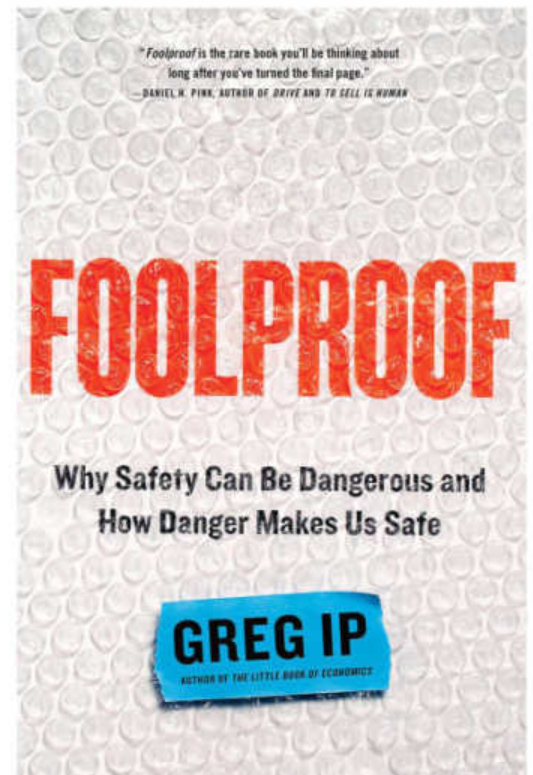
In another section of the book, Ip considers common accusations against levees and dams. Configured at least in part to mitigate flooding (and also, of course, linked into systems of power production and water storage), they mislead by instilling a false sense of security. They get tied into insurance protection and government certifications that encourage development on properties in the path of the next overflow. And then the overflow itself is made more severe by the supposed protections: Water channeled by levees or held in a dam becomes a ferocious force when overtopping occurs, walls collapse, and water rushes across the "protected" lands. Katrina, to take the famous case, had greatly lessened in force when it made landfall at New Orleans—classified at that point as a Category 1 storm downtown and no higher than a Category 2 in other parts of the metropolis. The destruction came from

the storm surge magnified by the city's artificial flood control artifacts.

Again, Ip is measured: He doesn't think levees are always bad. They're OK, he argues, when coupled with strategic overflow zones that make "room for the river."

**A long-time reporter for the financial press** (at *The Economist* before he joined *The Wall Street Journal*), financial meltdowns are Ip's real métier. He has watched the rise and fall of world economies and the efforts made to stave crises off. He traces how, since the early 20th century, measures have been taken to safeguard individual savers as well as the health of economies overall. When government insures bank accounts, most savers are made secure and their institutions have less reason to worry about panics that will empty out their assets. Score one for intervention.

But again, there are unantici-



pated outcomes. In return for the deposit guarantees, governments restrict banks' lending policies, require minimal cash reserves, and regularly inspect the books. Newer institutions then take up the practices the banks were forced to leave behind, and older ones (think Goldman Sachs) grow dramatically by getting into the business as well. The upstarts also developed, over time, "instruments" not envisaged by anyone: Credit Default Swaps, Basket Default Swaps, the ABX (an asset-backed securities index), and, with resonance of World War I, the word "tranches."

In the great foolishness that followed, loans were approved with little due diligence. There was no motive to be cautious, because the link between borrower and lender got severed—what economists call the "agency problem." The first loaning institution (banks or otherwise) flipped the loan to a different outfit. Thousands of such assets were assembled en masse into still other products that could again be sold off—in chunks and pieces, as investor-customers might desire. Various firms escaped all vulnerability, in effect taking a fee for simply attracting the applicant and processing the paperwork. It all went fine until the housing bubble burst and the "underlying assets" were revealed to be permeated by rot.

Those who invested and those who had provided insurance against failure (such as AIG) were challenged to stay afloat. Some survived by dint of wisdom. Some were bailed out, in another protective act that may have paradoxically encouraged wrongful risk-taking. (As with paying off a homeowner who built in a flood plain, a bank bailout can sustain the

behaviors that made the help necessary.) And some failed, taking down a good piece of the world economy in the process.

**B**anking and finance are big things; helmets are not. One of the creative strengths of Ip's book is the search for similar phenomena across what appear to be unlike circumstances. He is able to see continuities. One is the persistence of individuals and institutions altering their behavior, unwittingly or wittingly, *against* those measures designed for safety. So there is always the *potential* for a Jevons-like effect,

**As with paying off a homeowner who built in a flood plain, a bank bailout can sustain the behaviors that made the help necessary.**

but there may also be ways that effect can be neutralized.

Another of Ip's analytic threads is the "compositional effect": What is good for one actor is not good at all if a lot of people do the same thing. If only some people in a stadium stand up to better see the field, they will see better; if everyone stands up, nobody sees better, and now they have the collective hurt of not having a seat. Pulling money from a faltering bank makes sense for the first movers; if a lot of people do it, there is ruin for all the rest. Just as there can be bank panics, there can be "food panics," as when a few bad heads of spinach cause a market collapse for all spinach.

Ip takes on a lot but also leaves a lot out, and I don't think it's simply because giving us more would make the book too long. He skirts

some important issues, perhaps out of timidity. How would he deal with those opportunists in the finance industry—what solutions might at least draw down the risks? He doesn't say. Nor does he say much about the politicians who incite the fears that panic the country into such unwise safety programs as the war on drugs or the TSA's war on shampoo. And then there's foreign policy. The post-9/11 wars were supposed to create homeland security but have instead made us less secure. Surely they would be relevant here.

It is a waste of Ip's smarts to hold back on these great issues of our time. *Foolproof* can go further. ■

Harvey Molotch ([harvey.molotch@nyu.edu](mailto:harvey.molotch@nyu.edu)) is a professor of sociology and metropolitan studies at New York University. His most recent book is *Against Security: How We Go Wrong at Airports, Subways, and Other Sites of Ambiguous Danger* (Princeton).

## HUMANE AND PRO-GROWTH

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### Israeli Indie Comics

The conventions of Asaf Hanuka's graphic memoir *The Realist* (Archaia) will be familiar to American indie comics fans: An arty urban creative type, in this case a self-torturing cartoonist, copes with marital unrest and rising real estate prices while fretting over Facebook communication strategies and watching his youth's excitement and possibilities irretrievably pass.

But the story, told in one-page installments, feels exotic—and portentous—to Americans. Hanuka is a Tel Aviv resident of Iraqi extraction. His self-absorbed fretting takes on an unnerving funhouse-mirror quality as Hanuka copes with being singled out at security checkpoints, debates his barber about the likelihood his family will be annihilated by Iranian nukes, sees his young son's hands metaphorically bloodstained when playing with a soldier toy in a tub, solemnly watches many friends move out of the country for safety, and ironically notes his relief that—when it comes to the endless cycle of violence—“I’m with the good guys.”

—Brian Doherty

### Reds and Feds

What the FBI's war on the Maoist fringe tells us about the surveillance state.

Jay Kinney

*Heavy Radicals: The FBI's Secret War on America's Maoists*, by Aaron J. Leonard and Conor A. Gallagher, Zero Books, 337 pages, \$29.95

BY THE TAIL END of the 1960s, Soviet-style socialism held little attraction for the American left, except to those within the shrinking orbit of the Communist Party USA (CPUSA). It clearly was a stagnant system. But *Chinese* socialism seemed like it might be something else. For those who still believed in the communist ideal, Maoism was a life raft to cling to.

The surveillance state clung to it too. From the early '60s onward, the FBI infiltrated, disrupted, and monitored America's Maoist movement, which it considered a tool of the Chinese regime. As early as 1962, an enterprising FBI agent created a self-styled Ad Hoc Committee for Scientific Socialism as a supposedly Maoist rump faction within the CPUSA.

The FBI also paid attention to the Progressive Labor Party, a pro-Mao group whose machinations played a big role in the breakup of Students for a Democratic Society. And in the 1970s, as Maoist group-plets proliferated, the bureau kept both an eye on and a hand in the proceedings.

With *Heavy Radicals*, historians Aaron Leonard and Conor Gallagher illuminate the surveillance state's role in shaping both the left itself and the government's response to it. Their case study is the Maoist group known first as the Revolutionary Union (R.U.), which evolved into the Revolutionary Communist Party (RCP) over the course of the '70s and soon thereafter devolved into a personality cult centered around its chairman, Bob Avakian.

The Revolutionary Union was founded in 1968 by a set of strong personalities, including Avakian, the Stanford historian H. Bruce Franklin, the longtime activist Leibel Bergman, and Steve Hamilton, one of the Oakland Seven—a group of East Bay radicals arrested for attempting to shut down the transfer of Vietnam draftees out of Oakland. R.U.'s politics were partly



*The Realist* (cover detail)  
*Heavy Radicals* (cover detail)

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## Spectres Haunting Europe

Conservatives often claim that the total state was born in the ashes of 1789. That's truer than they may imagine: While the Jacobins were certainly pioneers of political policing, the same was true of the Old Order regimes that responded to the threat of revolution by building up police states of their own. Adam Zamovski's magnificent *Phantom Terror* (Basic Books) tells this tale, showing how governments across Europe reacted to revolutionary activity—and, much more often, to entirely imaginary revolutionary conspiracies—by erecting systems of surveillance, censorship, and control.

Figures like Prince Metternich come across as reactionary fantasists jumping at shadows: They see the hand of the Illuminati or some other subversive secret society behind anything that might erode their power, yet are caught unprepared when real revolts finally break out. In the meantime, networks of informants keep finding creative ways to feed their rulers' fantasies by telling officials what they want to hear.

—Jesse Walker

inspired by the Chinese Cultural Revolution and in many ways were a throwback to the Stalinism of the 1930s. (Franklin even edited an anthology titled *The Essential Stalin*, with an introduction that attempted to rehabilitate the dictator's reputation.)

R.U. may have been mostly unknown to the country at large, but it was of great interest to the FBI, which was worried that the group's back-to-basics appeal might attract the scattered but growing ranks of American Maoists. FBI documents, obtained by Leonard and Gallagher under the Freedom of Information Act, indicate that the government successfully planted informers and undercover operatives in R.U. collectives from nearly the very beginning, including at least one member of R.U.'s central committee. With detailed reports coming in of the group's top-level policy and strategy meetings, the FBI was able to manipulate R.U.'s famously disciplined security efforts and heighten members' suspicions of each other.

In the mid-1970s, when R.U. and several other Maoist formations formed an ad hoc National Liaison Committee to try to assemble a new “non-revisionist” Communist Party, one key FBI plant served as the R.U. member tasked with representing the organization on the committee. This single individual helped unravel the project by pitting ethnic nationalist groups on the committee against the R.U. and each other.

Similarly, R.U. and its major rival in “party building,” the October League (O.L.), were unable to reach broad agreement, instead denouncing each other for having incorrect ideological “lines” and wasting much energy on polemical attacks. While preventing the merger of R.U. and O.L. was very high on the FBI's wish list, in this case it appears that the two groups' mutual hostility was due less to government manipulation—though there was some of that—than to sectarian posturing and ego conflicts. In short, the groups managed to achieve a lot of the FBI's goals on their own.

**In the end, the disintegration of American Maoist efforts to form a classic Marxist-Leninist vanguard party were as much due to shifts in**

Chinese policy, particularly in the wake of Mao's death in 1976, as they were due to FBI dirty tricks and surveillance. With China's new leaders tilting toward state capitalism—albeit with a patina of Mao's personality cult still intact—China itself was abandoning Maoism and saw little reason to pat American true believers on the head.

Prior to Mao's demise, both R.U. and O.L. in 1975 had declared themselves the new and true Marxist-Leninist vanguard party, becoming the RCP and the Communist Party (Marxist-Leninist), respectively. Though the latter briefly beat out the RCP for the official Chinese “franchise,” that franchise soon became meaningless, and the RCP took the logically inevitable step of declaring themselves the true upholders of Maoism in opposition to China's abandonment of the faith.

*Heavy Radicals* draws the curtain on the whole debacle during the 1978–1980 period, when the RCP was replacing its former emphasis on workplace organizing with an increasingly hysterical militancy in the streets. Riots and clashes with police during Chinese Vice Premier Deng Xiaoping's January 1979 visit to the White House resulted in Chairman Bob Avakian's indictment on multiple felony charges and the arrest of numerous party members.

Further mayhem ensued from RCP efforts to organize mass demonstrations for May Day in 1980. Militant actions in the lead-up to the protests—designed to draw attention to the party's plans—resulted in the arrests of hundreds of the RCP's youthful May Day Brigades. The demonstrations themselves were, not surprisingly, anti-climactic and hardly massive. While some of these



failures were exacerbated by government surveillance and infiltration, it seems fair to conclude that the RCP's decline into a cult was bound to marginalize it, with or without repressive measures from the feds.

In December 1980, Bob Avakian applied for political asylum in France. It would be decades before he would quietly slip back into the U.S.; by then, all his Revolutionary Union co-founders had either stomped off angrily or been purged. Chairman Bob was the last one standing—a testimony to his stubborn longevity, if not his sanity.

**T**he surveillance state has survived as well, though it now relies less on the relatively primitive methods described in *Heavy Radicals*. Why surreptitiously enter apartments to place bugs when the technology exists to eavesdrop from a distance?

Why painstakingly target individuals or specific groups when National Security Agency programs, such as those Edward Snowden has exposed, are capable of hauling in and storing data on everyone using a phone or the Internet?

Genuine threats to national security do exist. It would surely have

**In the 1970s, as Maoist grouplets proliferated, the bureau kept both an eye on and a hand in the proceedings.**

been better if the 9/11 attacks in New York and Washington or the more recent massacres in Paris had been nipped in the bud. Yet despite all the advances in the state's surveillance sophistication, it remains unclear that the attendant assault on our privacy and civil liberties actually deliv-

ers much in the way of prevention. Omnipresent closed circuit television cameras, for instance, do not advance real-time security so much as create a means to trace what has occurred after the fact. School shootings and similar crimes demonstrate that if someone is determined to wreak havoc, no amount of spying is likely to prevent it.

In the meantime, all that spying does enormous damage to the Bill of Rights. *Heavy Radicals'* account of "the FBI's secret war on America's Maoists" gives the strong impression that the bureau's efforts were a greater threat to our liberties than anything Bob Avakian's followers could realistically concoct. ■

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*Jay Kinney's most recent book is **Anarchy Comics: The Complete Collection** (PM Press). More of his art and writing can be found at [jaykinney.com](http://jaykinney.com).*



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## Zoning and Zen

How regulations and charges of “cultural appropriation” destroyed a widow’s small business dream

*Robby Soave*

THREE YEARS AGO, tragedy struck Renee Bierbaum of Palmetto, Florida. Her husband was killed in a motorcycle accident, leaving her a widow with an 11-year-old son. Consumed by grief, she eventually found solace by practicing yoga—and decided to quit her job and become a full-time instructor.

“When he died, I realized the brevity of my life,” she says. “I hated what I was doing.” Now Bierbaum is a certified yoga instructor and the proud owner of an expansive yoga pavilion in her backyard. Her business is on hold, however, because the county government won’t let her teach yoga—on her own property—unless she coughs up \$7,000 for a permit.

**E**ven if she’s able to pay, there’s no guarantee the county government will actually let her proceed. According to zoning laws, the public has the right to weigh in on the matter of whether officials should grant Bierbaum her permit. And as it turns out, a certain member of the public—a Native American activist who believes Bierbaum is appropriating his culture—is determined to stop her from realizing her vision.

Sal Serbin is a member of the Sioux nation and an activist with the American Indian Movement in Florida. He doesn’t object to the yoga portion of Bierbaum’s class—yoga has South-Asian Indian origins, not Native American origins. But

Bierbaum intended to incorporate a sweat lodge into her offerings.

“It is my right as an Indian to preserve and protect our culture,” he says. Serbin, who alerted county officials to the illegality of Bierbaum’s practice in the first place, says he will use every means at his disposal to prevent her from appropriating his culture. “The law helped me in this case and I took advantage of that.”

Some yoga practitioners strip it from any cultural context and treat it mostly as a workout. Indeed, when liberal students at the University of Ottawa tried to have a yoga class shut down on grounds that it appropriates Indian culture and marginalizes non-white students, the instructor offered to change the name of the class to “mindful stretching,” since it had very little to do with authentic yoga.

But Bierbaum—who also teaches martial arts—fully embraces yoga’s cultural, spiritual, and meditative properties. She even teaches the proper Indian terminology in her classes. “When I present the postures, I use their Sanskrit names,” she explains. “I want to honor that tradition.”

### **Bierbaum started by holding classes**

for friends at various neighbors’ houses. Eventually, there was too much interest and not enough room, and she decided to transform her backyard into the ideal yoga space. She called it the Raven’s Nest yoga studio. “I took every last penny I had and built a big pavilion in my backyard,” she says.

To celebrate the end of 2015, Bierbaum decided to do something special: host a women’s retreat featuring a Native American sweat lodge ceremony overseen by an experienced friend. A flyer for the event promised,

“As the day draws to a close and twilight covers the land, each will have some time to herself with her mala for prayers and meditations before we begin our Native American Sweat Lodge Ceremony. Our sweat will be presided over by Donella Favorite. Donella has spent 11 years in apprenticeship with Grey Ghosthawk, Medicine Man, Lodge Leader, teacher and healer who studied under Eaglebear, student of Sun Bear. Donella has been given her rights to pour and lead the women’s lodge and I am truly honored to have her perform this sacred, healing ceremony for all of you.”

Bierbaum isn’t the first person to pair yoga with sweat-lodge meditation and she isn’t the first to explicitly reference Native American ritual. But the sweat lodge raised the ire of Serbin, who has a long history of going after people for trying to make money off Native American customs. In 2012, he generated headlines for heckling Native American performer Ed Winddancer at his events, accusing him of being a culture thief.

Serbin said he first tried to persuade Bierbaum to abort her plans—or at least drop the Native American imagery. When negotiations failed, he called the county authorities.

“He said ‘you’re not full blood, you are not an Indian, you have no right to our sacred tradition,’” says Bierbaum. “He got really angry with me. He went to the county and started causing problems for me.”

Soon after, local authorities descended upon Raven’s Nest and shut Bierbaum down. Serbin claims that this was in the best interests of everyone’s safety. “People that are not Native American have been injured and have actually died in those [sweat lodges],” he says. “She





is running an illegal business. She didn't have the right to do that. She was breaking the law."

As it turns out, zoning laws prohibit Bierbaum from teaching more than four paying yoga students at a time. The only solution is for Bierbaum to obtain a permit. But the permitting process is tricky to navigate and the large application fee is non-refundable. Officials could decide her business is unsafe for her customers, possesses inadequate facilities, or just plain isn't up to code.

And even if the application meets the county's approval, things could still fall apart during the mandatory public-hearing phase, at which point community members can raise objections and possibly convince the hearing officer to kill the permit.

"The public has the right to come in and speak and give their voice," says a spokesperson for Manatee County's Building and Development Services division. The process will take a minimum of four months, and possibly much longer.

Friends of Bierbaum set up a

GoFundMe page to raise money for the application fee to legitimize Raven's Nest. In December, they met their goal of raising \$7,000. Bierbaum said she was initially skeptical about asking people for money but was moved by the outpouring of support. "I have friends from all over the world," she says, choking back tears. "It's very humbling." ■

*Robby Soave (robby.soave@reason.com) is a staff editor at reason.*



## Meet Your Mate in This Stoner Party Bus

Stephanie Slade

DENVER MARIJUANA enthusiasts looking for a place to hang with the like-minded now have one more option available to them. In December, High There!—a dating app, essentially, for people who love pot—began offering the services of a 20-person “hotbox party bus,” as the company’s Twitter account described it.

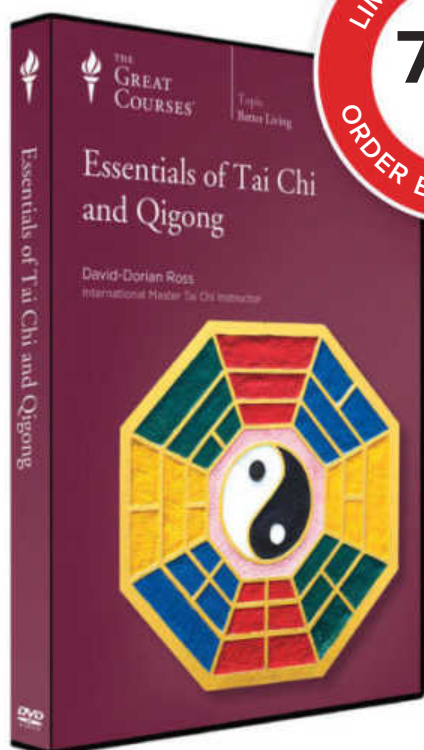
It has been legal to purchase, possess, and consume weed in Colorado since Amendment 64 passed in 2012—but not in public places. Smoking in bars or in restaurants or outdoors is not authorized. Livery services such as taxis and limos are permitted to allow toking in their back seats, however, giving High There! precisely the loophole it needed to put its roving cannabis lounge, dubbed the “Hopper,” on the road. The company eventually hopes to expand the service to Washington, Oregon, and anywhere else voters legalize recreational use.

For now, the company isn’t charging people to join the mobile party; signing up through the app is all that’s required. Users can then use GPS to track the buses, which travel along designated routes, making stops at dispensaries and other places of interest. “If Uber and Tinder had a stoner baby,” *Mashable* wrote, “it would be this app.” 🍓



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Stephanie Slade (sslade@reason.com) is deputy managing editor of **reason**.



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